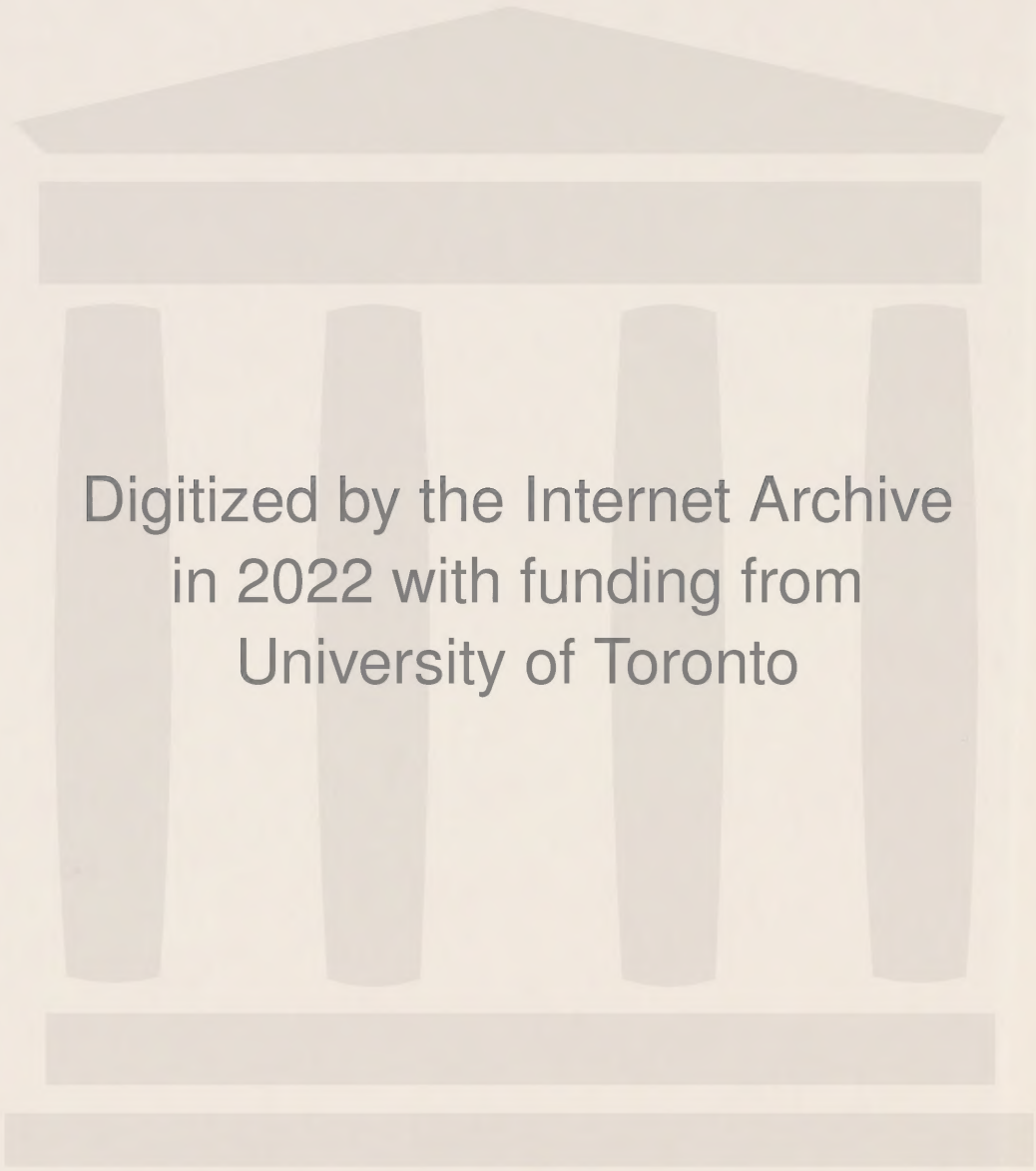

T-1

ISSN 1180-4319

Legislative Assembly
of Ontario

First Session, 38th Parliament

Assemblée législative
de l'Ontario

Première session, 38e législature

Official Report of Debates (Hansard)

Wednesday 10 December 2003

Journal des débats (Hansard)

Mercredi 10 décembre 2003

Standing committee on regulations and private bills

Organization

Comité permanent des règlements et des projets de loi d'intérêt privé

Organisation

Chair: Tony C. Wong
Clerk: Trevor Day

Président : Tony C. Wong
Greffier : Trevor Day

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Copies of Hansard

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

Exemplaires du Journal

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.

Hansard Reporting and Interpretation Services
3330 Whitney Block, 99 Wellesley St W
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
3330 Édifice Whitney ; 99, rue Wellesley ouest
Toronto ON M7A 1A2
Téléphone, 416-325-7400 ; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 10 December 2003

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 10 décembre 2003

The committee met at 1003 in committee room 2.

ELECTION OF CHAIR

Clerk of the Committee (Mr Trevor Day): I call the meeting to order. Honourable members, it is my duty to call upon you to elect a Chair. Are there any nominations?

Mr Bob Delaney (Mississauga West): I nominate Tony Wong as Chair.

Mr Tony Ruprecht (Davenport): I second that nomination.

Clerk of the Committee: Any further nominations?

Mr Ruprecht: And Vice-Chair?

Clerk of the Committee: We're just going to take care of the Chair first. No further nominations? I declare the nominations closed and Mr Wong Chair of the committee.

ELECTION OF VICE-CHAIR

The Chair (Mr Tony Wong): Thank you, Clerk. I want to thank all of you for your support.

We're now going to elect a Vice-Chair, which is item 2 on the agenda. Are there any nominations?

Mr Ruprecht: I nominate Khalil Ramal for Vice-Chair.

The Chair: Thank you. Any further nominations for Vice-Chair? There being no further nominations, I declare nominations closed and Mr Khalil Ramal elected Vice-Chair of the committee. Congratulations.

APPOINTMENT OF SUBCOMMITTEE

The Chair: Item 3: a subcommittee on committee business.

Mr Garfield Dunlop (Simcoe North): Thank you very much, Mr Chair. Congratulations on this easy election; the same for Mr Ramal.

I move that a subcommittee on committee business be appointed to meet from time to time, at the call of the Chair or on the request of any member therof, to consider and report to the committee on the business of the committee;

That the subcommittee be composed of the following members: the Chair, Mr Wong, as Chair, Mr McMeekin and Mr Martiniuk;

That the presence of all members of the subcommittee is necessary to constitute a meeting.

Mr Rosario Marchese (Trinity-Spadina): I would ask that I be invited to come to the subcommittee as a former Chair of this committee.

The Chair: Are we expected normally to invite the—did you say former Chair?

Mr Marchese: I was a former Chair of this committee, and I am asking that I be invited to sit on the subcommittee with the approval, of course, of the members here.

The Chair: I just want to take the personality out. I'm asking the clerk if this is normal.

Mr Gerry Martiniuk (Cambridge): I would assume that Mr Marchese would be attending as an observer and as such, we certainly have no objection; we invite him. He's quite a jovial individual, and I'm sure we'll enjoy his presence.

The Chair: That being the case, Mr Marchese, are you agreeable to that, that you will be a non-participating member of the committee?

Mr Marchese: No, I would ask that I be invited to come and participate as a member, not just to come and look at the other members, for God's sake.

Mr Ruprecht: I have no objection to this. If Mr Marchese thinks he can make a recommendation or he wants to make some comments, I see no objection to that.

The Chair: Mr Marchese, I have been advised that this is not normally acceptable to a subcommittee; that you can come as an observer but not as a full participating member.

Mr Marchese: It would seem to me that if there's unanimous consent of this committee, we could do anything we want. Can we ask for unanimous consent of the committee?

The Chair: Mr Marchese, I was told that the unanimous consent will only work if it's permitted by the standing orders. But this is not permitted by the standing orders, so we simply cannot do it technically. So are you agreeable to being a non-participating member?

Mr Marchese: OK.

The Chair: So that's agreeable. I guess he has no choice, because it's technically not possible to give him full participating status.

Mr Ruprecht: Could you give a quick outline to the members of this committee as to what the subcommittee is actually going to do?

The Chair: I want to advise Mr Marchese that he can pretty well do everything that a full participating member can do except vote.

Mr Marchese: Thank you.

The Chair: Mr McMeekin.

Mr Ruprecht: Do you want me to repeat my question or are you recognizing Mr McMeekin right now?

The Chair: So the question relates to only the subcommittee, right, Mr Ruprecht? The subcommittee can meet and make recommendations, but all decisions have to be ratified by the full committee. It's basically reviewing the private bills and then making recommendations to the full committee.

Mr Ruprecht: So, then, I would assume that this subcommittee is meeting regularly and then making recommendations to us?

Mr Dunlop: Once or twice a year.

The Chair: I don't think we're going to be meeting on a very frequent basis.

Mr Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot): This may or may not be helpful, depending on one's perspective, but the resolution that was put in the Legislative Assembly the other day, commonly and affectionately referred to as "5," would allow for a standing order to be put in place to have full participatory membership even when you're not on the committee. Once that's in place, once that standing order is in place—and it's currently before the House—then this will be easily accommodated.

The Chair: I assume if it's the intention and pleasure of this committee, then we can reconsider that matter at that time.

Mr McMeekin: That's part of the democratic renewal. We want to make sure that everyone who has something significant to contribute has an opportunity to do that. We wouldn't want to stand in anybody's way.

The Chair: All in favour of the motion? Opposed, if any? That is carried.

That's the end of the agenda. I declare the meeting adjourned.

The committee adjourned at 1012.

CONTENTS

Wednesday 10 December 2003

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Chair / Président
Mr Tony C. Wong (Markham L)

Vice-Chair / Vice-Président
Mr Khalil Ramal (London-Fanshawe L)

Mr Bob Delaney (Mississauga West / -Ouest L)
Mr Rosario Marchese (Trinity-Spadina ND)
Mr Gerry Martiniuk (Cambridge PC)
Mr Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot L)
Mr Phil McNeely (Ottawa-Orléans L)
Mrs Carol Mitchell (Huron-Bruce L)
Mr Bill Murdoch (Bruce-Grey-Owen Sound PC)
Mr Khalil Ramal (London-Fanshawe L)
Mr Tony Ruprecht (Davenport L)
Mr Tony C. Wong (Markham L)

Substitutions / Membres remplaçants
Mr Garfield Dunlop (Simcoe North / -Nord PC)

Clerk / Greffier
Mr Trevor Day

Staff / Personnel
Mr Andrew McNaught, research officer, Research and Information Services

T-2

ISSN 1180-4319

Legislative Assembly of Ontario

First Session, 38th Parliament

Official Report of Debates (Hansard)

Wednesday 5 May 2004

Standing committee on regulations and private bills

Subcommittee membership

Chair: Tony C. Wong
Clerk: Trevor Day

Assemblée législative de l'Ontario

Première session, 38e législature

Journal des débats (Hansard)

Mercredi 5 mai 2004

Comité permanent des règlements et des projets de loi d'intérêt privé

Membres du sous-comité

Président : Tony C. Wong
Greffier : Trevor Day

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Copies of Hansard

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

Exemplaires du Journal

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.

Hansard Reporting and Interpretation Services
3330 Whitney Block, 99 Wellesley St W
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
3330 Édifice Whitney ; 99, rue Wellesley ouest
Toronto ON M7A 1A2
Téléphone, 416-325-7400 ; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 5 May 2004

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 5 mai 2004

The committee met at 1131 in committee room 1.

SUBCOMMITTEE MEMBERSHIP

The Chair (Mr Tony C. Wong): Welcome. I call the meeting to order. There's only one item on the agenda, and that's organization of the subcommittee on committee business. Can we have a motion?

Mr Kevin Daniel Flynn (Oakville): I move that membership of the subcommittee on committee business be revised as follows:

That Mr Delaney be appointed in the place of Mr McMeekin.

The Chair: All those in favour? Opposed, if any? That motion is carried.

There being no other business, the meeting is now adjourned.

The committee adjourned at 1131.

CONTENTS

Wednesday 5 May 2004

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Chair / Président
Mr Tony C. Wong (Markham L)

Vice-Chair / Vice-Président
Mr Khalil Ramal (London-Fanshawe L)

Mr Bob Delaney (Mississauga West / Mississauga-Ouest L)
Mr Kevin Daniel Flynn (Oakville L)
Mr Rosario Marchese (Trinity-Spadina ND)
Mr Gerry Martiniuk (Cambridge PC)
Mr Phil McNeely (Ottawa-Orléans L)
Mr Bill Murdoch (Bruce-Grey-Owen Sound PC)
Mr Khalil Ramal (London-Fanshawe L)
Mr Tony Ruprecht (Davenport L)
Mrs Maria Van Bommel (Lambton-Kent-Middlesex L)
Mr Tony C. Wong (Markham L)

Clerk / Greffier
Mr Trevor Day

Staff / Personnel
Mr Andrew McNaught, research officer, Research and Information Services

T-3

ISSN 1180-4319

Legislative Assembly of Ontario

First Session, 38th Parliament

Official Report of Debates (Hansard)

Wednesday 12 May 2004

Standing committee on regulations and private bills

Chair: Tony C. Wong
Clerk: Trevor Day

Assemblée législative de l'Ontario

Première session, 38e législature

Journal des débats (Hansard)

Mercredi 12 mai 2004

Comité permanent des règlements et des projets de loi d'intérêt privé

Président : Tony C. Wong
Greffier : Trevor Day

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Copies of Hansard

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

Exemplaires du Journal

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.

Hansard Reporting and Interpretation Services
3330 Whitney Block, 99 Wellesley St W
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
3330 Édifice Whitney ; 99, rue Wellesley ouest
Toronto ON M7A 1A2
Téléphone, 416-325-7400 ; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 12 May 2004

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 12 mai 2004

The committee met at 1008 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mr Tony C. Wong): Ladies and gentlemen, this is the standing committee on regulations and private bills. I call the meeting to order. The first order of business is the report of the subcommittee on committee business.

Mr Bob Delaney (Mississauga West): Your subcommittee met on Wednesday, May 5, 2004, to consider the method of proceeding on Bill 43, An Act to amend the Liquor Licence Act by requiring signage cautioning pregnant women that the consumption of alcohol while pregnant is the cause of Fetal Alcohol Syndrome, and recommends the following:

(1) that the committee meet in Toronto on Wednesday, May 19, 2004, for the purpose of holding public hearings and clause-by-clause consideration of Bill 43;

(2) that the committee clerk, with the authorization of the Chair, post information regarding the hearings on the committee's Web site and on the Ontario parliamentary channel, Ont.Parl;

(3) that interested parties who wish to be considered to make an oral presentation on Bill 43 contact the committee clerk by 12 noon on Friday, May 14, 2004;

(4) that witnesses be offered 15 minutes for their presentation and that the committee clerk, in consultation with the subcommittee, be authorized to modify this time in order to facilitate the scheduling of all witnesses;

(5) that in the event all witnesses cannot be scheduled, the committee clerk provide the members of the subcommittee with a list of requests to appear by 1 pm on Friday, May 14, 2004;

(6) that the members of the subcommittee prioritize the list of requests to appear and return it to the committee clerk by 5 pm on Friday, May 14, 2004;

(7) that the deadline for amendments to Bill 43 be 5 pm on Friday, May 14, 2004;

(8) that the deadline for written submissions be 12 noon on Monday, May 17, 2004;

(9) that one hour of the committee's meeting on Wednesday, May 19, 2004, be reserved for clause-by-clause consideration of Bill 43;

(10) that each party be allotted five minutes for an opening statement at the commencement of clause-by-clause consideration of Bill 43;

(11) that the clerk of the committee, in consultation with the Chair, be authorized prior to the passage of the report of the subcommittee to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair: Shall the report carry, members? Any discussion? OK. The report is carried.

MALTON SEVENTH-DAY ADVENTIST CHURCH ACT, 2004

Consideration of Bill Pr2, An Act respecting the Malton Seventh-day Adventist Church.

The Chair: The next order of business is Bill Pr2, An Act respecting the Malton Seventh-day Adventist Church. Dr Shafiq Qaadri will be sponsoring this bill. Would Dr Qaadri and the applicant please come forward? I'll ask the applicants to introduce themselves when they speak. Dr Qaadri, as the sponsor, do you have any comments?

Mr Shafiq Qaadri (Etobicoke North): Yes, Mr Chair and my colleagues. First of all, welcome to the Seventh-day Adventist group and to others who'll be testifying later. This particular bill is an anomaly. It seems like an artifact of government regulations. As I understand it, taxation is being extracted from the church, and it should not be. Of course, there's quite a bit of legalism, which I will leave wiser heads to actually explain the details of, but I think it's really just a technicality, and hopefully we'll be able to reverse this. I understand that this particular request has been pending, as always, for some time.

The Chair: Thank you, Dr Qaadri. Applicants, please introduce yourselves when you speak.

Mr Barry Bussey: I'm Barry Bussey. I'm general counsel for the Seventh-day Adventist Church in Canada. We've got with us today Mr Ulysses Guarin, who's the treasurer of the Ontario conference of the Seventh-day Adventist Church. Next to him is Pastor Donkor, who is pastor of the Ghanaian church, which is sharing this building, this structure.

This matter arose because in March 1995, the church had purchased a warehouse at Atwell Drive. What hap-

pened was that it was, of course, a commercial building. The church made contact with the authorities for the city and so on, with respect to the fact that this would be used as a house of worship. Suffice it to say that from 1995 to 1999 the property was still assessed as a commercial building rather than as a house of worship. Finally, what happened was the respective limitation periods ran out with respect to the Assessment Act and the tax act and, as a result, there was no opportunity to get the recognition that this property was, in fact, a house of worship.

We received a court order in 2000 which recognized that, in fact, the property was a house of worship, but as the limitation period had run out, the court order was only for the year 2000 and onwards. So the purpose of this act is to allow us to basically get the property reassessed for the years 1995 to 1999.

I would just like to note that in this proposed act we do have in section 1 that it's for the 1995 to 2002 taxation years. However, it should be for the 1995 to 1999 taxation years.

That is, in essence, where we're at. Basically what will happen is, should this be passed, it will allow us 90 days to get this property reassessed. Then we will have it recognized, we hope, as a house of worship.

The Chair: Thank you. Does anyone else from the applicants want to speak? OK. There are no other interested parties for this item? Any questions from members?

Mr Tony Ruprecht (Davenport): Thank you very much for your presentation. We certainly want to encourage you in your work. Did you say you needed 90 days to have the reassessment done, or can that be done quicker?

Mr Bussey: Well, we hope it would be. Basically what will happen is, as soon as it receives royal assent we will seek the assessment as soon as possible, depending on what will happen with the assessment board.

Mr Ruprecht: So as soon as you leave here today you're going to approach the assessment office? Is that what you're going to do?

Mr Bussey: We've been in touch, of course, with the assessment board. They've basically been saying that their hands are tied. So, as soon as this act is through, we will get them to reassess.

Mr Ruprecht: I would hope this will be done as quickly as possible. Dr Qaadri is here, and of course, if he supports this bill, then I will certainly add my name to it, right? We have full faith in Dr Qaadri's decision on this issue.

Let me just point out one more thing: I was delighted when I was invited by the Perth Avenue Seventh-day Adventist Church. Just as an aside, I want to say "thank you very much" to you and to them for the work in the community, and I wish you Godspeed.

The Chair: Any further questions? Does the parliamentary assistant have any comments?

Mrs Maria Van Bommel (Lambton-Kent-Middlesex): At this point, I want to thank the presenters for coming. In terms of the position that the government would take on this, we are not opposed to this. It certainly appears to have been an error in terms of assessment, and it should have been rectified. We would support this act.

Mr Gerry Martiniuk (Cambridge): As a former lawyer, I know the fragile nature of missing a limitation period. I hope you'll continue your good work, and I'm pleased to support your application.

The Chair: We are now going to deal with the act section by section, starting with section 1.

Mr Delaney: This is Bill Pr2, An Act respecting the Malton Seventh-day Adventist Church. I have an amendment to be moved to section 1.

I move that section 1 of the bill be amended by striking out "2002" and substituting "1999."

Interjection.

The Chair: Seconded by Mr Ruprecht.

All those in favour of the amendment? Carried.

All those in favour of section 1, as amended? Carried.

Section 2: All in favour? That's carried.

Section 3: All in favour? Carried.

Section 4: All in favour? Carried.

Shall the preamble carry? All in favour? That's carried.

Shall the title carry? All in favour? That's carried.

Shall the bill, as amended, carry? All in favour? Carried.

Shall I report the bill, as amended, to the House? All in favour? Carried.

I want to thank all parties who have participated.

We will now deal with the next order of business.

1020

ASSOCIATION OF REGISTERED GRAPHIC DESIGNERS OF ONTARIO ACT, 2004

Consideration of Pr3, An Act respecting the Association of Registered Graphic Designers of Ontario.

The Chair: Mr Tim Peterson, MPP, will be sponsoring this bill. Mr Peterson and the applicants, please come forward.

Again, I will ask Mr Peterson to speak first, and the applicants, please introduce yourselves when you speak.

Mr Tim Peterson (Mississauga South): I'm here this morning with George Dzuro, the lawyer for the registered graphic designers; Carmen von Richthofen; and Albert Ng.

I'm pleased and honoured to be a sponsor of an amendment to the act that governs the Association of Registered Graphic Designers of Ontario, commonly known as the RGD. It's the professional body for graphic designers in Ontario. The association grants graphic designers who qualify the right to the exclusive use of the designations "registered graphic designer" and "RGD" and is the governing and disciplinary body for its members.

RGD Ontario is the only graphic design association in Canada to have such legislation. This amendment will enable the association to set the term of office for its elected directors. At present, the association defaults to

the requirements of the Corporations Act, which mandates that the term of directors be only one year. The association requires a greater length of time for its directors to ensure smooth and seamless work for the directors as well as the association as the whole. Hence, that is why we're sponsoring this amendment. We want to turn over the length of term to the management of the association itself.

If you have any questions, I'm happy to answer them, or other members from the RGD are happy to answer them as well.

The Chair: Thank you, Mr Peterson. Would the applicant like to speak?

Mr George Dzuro: I'll say a few words. I'm George Dzuro, the legal counsel for the registered graphic designers.

As Mr Peterson indicated, this association was created by a private member's bill in April 1996. The private member's bill that was passed at that time set the term of office for directors at one year.

Since 1996, the association has operated and has found that because anyone who serves on the board of this association is in a volunteer capacity, they felt it was unduly onerous to expect these individuals to take up the term for only one year. There was a fair degree for volunteers to learn during that first year in order to properly carry out their duties as directors, and they would then have to stand for re-election on a yearly basis. This also led to difficulty in finding qualified individuals, because there is the potential that you would spend the year, you would learn the job and then we'd have to find a whole new set of people to take up the position. We never were able to create experienced board members.

This is something that is commonly allowed within the Corporations Act, which is the act that we default to and we are governed by. If we were created by letters patent, we would have the ability as an organization to amend those letters patent and allow our members to extend terms of directorship and also allow the terms to rotate so that you wouldn't necessarily have your whole board turn over on a yearly basis; you could stagger it over a number of years so that you would have continuity.

This is really just a housekeeping matter. Because this association was created by way of a private member's bill, the only way we could give our members the ability to pass a bylaw that would allow us this flexibility was to go back and change the original bill. The original bill said specifically that it could only be one year. So we really are just trying to bring the original bill near what would otherwise be the case under the Corporations Act.

The Chair: Thank you, Mr Dzuro. Questions from committee members?

Mr Khalil Ramal (London-Fanshawe): I have no problem supporting the bill because I know exactly one year is not enough for the volunteer members to get their act together, and by one year, when they finish it, they're up for another election. But I'm wondering, how long are you asking for, a year, two, three? What's the term you're looking for?

Mr Dzuro: Within the legislation that we're passing, we're going to go back to our members and ask what the members want in terms of the term of office. We've said that no term can exceed five years. This would be the requirement under the Corporations Act.

Mr Ramal: You mean under five years.

Mr Dzuro: It would be a maximum of five years. The members may decide they really want them to be two-year or three-year terms. We're going to allow the members to make that decision, but it can't be more than five. Again, this is the same flexibility we would have had under the Corporations Act. It exactly mirrors the same provisions.

The Chair: Any further questions?

Mr Rosario Marchese (Trinity-Spadina): Just a quick point: I'm assuming that the reason they did this in 1996 was because they thought one year might be sufficient, that it's possible members may not want to sit longer than one year, that it could be onerous on members to sit for two or possibly three, but in their experience, they realize this is a problem. I'm assuming that's what it is.

Mr Dzuro: You're absolutely correct.

Mr Marchese: This basically is enabling legislation that allows you the flexibility to move the terms to two or three, or whatever it is that you decide.

Mr Dzuro: Correct, as the members would decide.

The Chair: Further questions, comments?

Mrs Van Bommel: I want to thank you for appearing today. Just from looking at the information and from hearing your presentation, it sounds like it's relatively an internal matter for your organization. It certainly does not impact in terms of your scope as a regulatory body. I would support this act. I can certainly understand, having been a volunteer myself on many boards, the issues around the terms of the directorships.

Mr Albert Ng: Can I say something? My name is Albert Ng. I'm the founding president of the Association of Registered Graphic Designers of Ontario. Besides asking the committee to support our application, I want to take this opportunity to thank everyone, especially the Ontario Legislature, for helping us to create this association by passing Bill Pr56. That was eight years ago, when I first presented in this room.

I want to share with you that this bill is very important. The Ontario Legislature has helped the association in Ontario and in Canada, making the association number one in the world. Recently we've been approached by the Queensland government administrator and also many organizations around the world, looking at the Ontario model. So I just want to thank you and the Ontario Legislature.

The Chair: Thank you, Mr Ng, for those comments. We're going to vote now.

Shall section 1 carry? All in favour? Carried.

Shall section 2 carry? All in favour? Carried.

Shall section 3 carry? All in favour? Carried.

Shall the preamble carry? All in favour? Carried.

Shall the title carry? All in favour? Carried.

Shall the bill carry? All in favour? Carried.

Shall I report the bill to the House? All in favour? Carried.

Very good. Thank you, Mr Peterson, and the applicant.

1030

ONTARIO RECREATION FACILITIES ASSOCIATION ACT, 2004

Consideration of Bill Pr4, An Act respecting the Ontario Recreation Facilities Association.

The Chair: The next order of business is Bill Pr4, An Act respecting the Ontario Recreation Facilities Association. Mr Jim Brownell will be sponsoring the bill, so please come forward with the applicant.

Mr Jim Brownell (Stormont-Dundas-Charlottenburgh): Good morning, Mr Chair, and thank you for this opportunity to introduce members of the Ontario Recreation Facilities Association, a group that has worked very hard to bring to this stage the bill in its form.

It's a pleasure to introduce the ORFA's president, Mr Greg Wright; Mr John Milton, the executive director; Mr Bill Upper, who is the director for region 4, which covers an area from Deep River to Cornwall; and Mr Fred Horvath, the past president of the Canadian Recreation Facilities Council.

I have to say, with regard to this bill, that it will help the organization to carry out its objectives, to govern and discipline its members and especially to provide that official designation to those people who work so hard in recreation facilities.

I would like to say that for 14 years I spent time in municipal government and I worked with recreation associations, recreation facilities, parks, arenas and the like. As I worked with those groups and the people who worked in them, I always thought they deserved greater recognition than was applied at the time—for example, somebody who worked at the arena being called a "rink rat." The individual working in that situation required far greater recognition for what they did.

When I had the opportunity of sponsoring this, I jumped on it right away. About two weeks ago, I was the guest speaker at the ORFA's general meeting up in Guelph, and it was a pleasure for me, as somebody who really did not as a youth have an opportunity to participate a lot in sports, to introduce this for something I believed in. Further to that, when I saw the support that this organization received from across Ontario, and they went out and certainly did their homework, I couldn't help but support them and believe what they're doing is important.

At this stage, I would like to turn it over. I know my friends from the association would have far greater and far more detailed comments to make with regard to the bill than I do, but it's a pleasure to welcome them here today.

The Chair: Would the applicant like to make comments?

Mr Greg Wright: My name is Greg Wright. I'm the president of the ORFA. Good morning, Mr Chairman, committee members, colleagues and guests.

At the outset, I'd like to thank Bill Upper, our region 4 director and chair of our operations committee, for his dogged determination in getting this bill to this stage before you today, and a special thank you to Mr Jim Brownell for enthusiastically supporting and sponsoring our bill.

The Ontario Recreation Facilities Association has been serving the training needs of its members for more than 49 years. The association was originally founded as the Ontario Arenas Association. The association has enjoyed 49 years of continuous sustained growth.

Over our history the association has partnered, worked with or worked for many groups and organizations. Some examples include:

—the Ministry of Tourism and Recreation for development of documents like the air quality in arenas and facilities. They supported our program financially at Guelph many years ago. They supported the development of the refrigeration manual that is one of our hallmark publications;

—the Ministry of Energy in the 1980s, when energy conservation was on the forefront, worked with us in the publication of our magazine;

—the National Hockey League, whose logo is on the plaque on one of our certifications related to ice technicians;

—the Canadian Recreation Facilities Council;

—the Copyright Board Canada. As a result of ORFA's actions related to that, they developed tariff 21, which saved municipalities a lot of money and a lot of problems related to using licensed music in their facilities;

—the Ontario Parks Association.

We work and continue to work with provincial public health units, especially the York region public health board, which is presently working diligently with us on the development and improvement of our aquatics programs.

We work with the Centre for Addiction and Mental Health. We presently are the agent for the delivery of their municipal alcohol policy guidebook.

We work with the Quebec Cree.

We work with STAR, the national organization from the United States that's named Serving The American Rinks. We brought Mr Milton back from Chicago, where we're attending the international conference.

We're working with Natural Resources Canada, specifically the CANMET building technologies program. One of the offshoots of that will be that they will support the French translation of that hallmark basic refrigeration manual I was speaking about, which I think will be a great opportunity for us.

We work with the Technical Standards and Safety Authority.

We work with the Canadian Standards Association. This document was released yesterday in Toronto: the New Standard to Protect Spectators in Arenas. It's based on the ORFA guideline for the same topic.

Industry: We have a new, exciting relationship with Simcoe refrigeration, where they're working with us to develop and modify our refrigeration program so that we can meet the new standards that TSSA is putting forward in the industry. We agree that the need is there for improving those programs and raising the standards.

This bill is an internal matter to the ORFA. This bill has no financial implications to this government. At the same time, this bill and the programs delivered by our association offer value to this government and the people of Ontario.

We are not political activists. We're not at your doorstep asking for funding. We simply seek recognition for our designation program, recognizing the education, experiential learning and cumulative competency and general training our members have achieved.

We have already seen our designation cited in job postings in the recreation facilities sector. They are listed as valuable assets, but are not compulsory, much in the same way that bilingualism is a valuable asset in an employee but not necessarily compulsory.

Municipalities will decide what criteria and qualifications are required to fill a position with competent people. Some small communities have recreation directors in our province who have neither certificates nor diplomas in recreation, even though this is a recognized profession.

The Parks and Recreation Federation of Ontario report on certification from the early 1990s, which I have here, identifies that recognition for training should not be a licence or become a requirement for employment. We agree with this conclusion. The report also identified that the increasing public awareness level of the program was important, to do more promotion of the benefits of certification was important and to make the program competency-based.

We are here to raise awareness. We are here to raise recognition. We are here to promote the benefits of this recognition program. This report was a comprehensive study of the issues, collaborating with the 12 existing member organizations of the Parks and Recreation Federation of Ontario. The ORFA continued to offer recognition for training while the others and their descendants chose not to.

Municipalities will make their own decisions, to be members of our association and whether to opt into our designation program. The criteria for designations and the competency certifications included in this bill were developed over many years by committees of experts in recreation facility management. We believe these criteria for designations are the minimum standards for competency. For example, our requirements for designation as a registered recreation facility supervisor—RRFS—are the following: the candidate be a member of our association, have a grade 12 education, have current WHMIS training, have current first aid training, have four years' full-time recreation industry work experience, and have completed the following ORFA, University of Guelph and/or equivalent courses: legal awareness and risk management, advanced building maintenance and operations, hold a certified ice technician or a certified aquatics technician designation or have taken one of the following: ice making and painting technologies, advanced aquatic facilities operations, parks equipment safety operations, marinas operation and management, revenue-generation in a recreation setting, plus four elective courses, either ORFA or other equivalent training. The training courses we offer were developed and are continually reviewed by a recognized expert in the profession. These courses evolve annually to stay current, on topic and relevant.

Of course the association recognizes that we are not always the only source of such professional development opportunities. We have provisions to accept equivalencies on the basis of individual merit.

1040

Whom will this bill serve? It serves those of our members who opt into our designation process. Having competent recreation facilities staff improves public safety for our customers and workplace safety for our employees. Competent staff manage energy consumption, protect the environment and provide value to the taxpayer.

Section 25(2)(c) of the Occupational Health and Safety Act states, "When appointing a supervisor, appoint a competent person." The test for competency should not be in court after a workplace accident or incident. The act clarifies competency as skill, knowledge and experience. We believe our designations meet that required competency to do the specified job safely.

The Ontario Ministry of Labour is becoming increasingly diligent in enforcing occupational health and safety, and rightly so. Bill C-45 raises the bar further by criminalizing wanton and reckless disregard to worker health and safety. We strongly believe that having staff meeting requirements for designation gives an employer and the employee superior tools to protect their workers themselves, and thus the assets of their organizations.

This reporting year, our sector will be part of the municipal performance measurement program. We understand that Parks and Recreation Ontario, or PRO, sponsored by this government, will hold seminars training our sector in how to complete the paperwork for meaningful municipal performance measurement reporting.

The underlying purpose of performance measurement is to identify best practices and efficiencies. For 49 years the OFRA's competency-based training has been doing exactly that. We've been sharing best practices. We've been helping members adapt best practices to their communities. We've been raising and communicating almost instantly issues and facility safety concerns.

Our position is that best practices must be communicated. Our training, either week-long, day-long or hours-long, helps our members improve their service delivery and performance, either in comparison with other similar communities, or more importantly, comparing their own performance measurement against their prior years.

Our training stresses risk management. A diligent risk management system will enable communities to meet their obligation under the Occupiers' Liability Act to protect the safety of those entering our recreation facilities, reducing the risk of associated liability for our municipalities.

The Ontario Parks Association has concerns about our bill. For most of our 49 years of providing training, we've had a partnering relationship with their association and share many of the same members. The facts are, over the last 10 or 15 years, the OPA was asked three times by a dual member if they were going to offer competency-based training. They replied in the negative each time.

In that vacuum, and with the urging of our members, we responded and offered competency-based parks operation and management training. This training was developed and/or delivered by us, for us, by a number of Ontario Parks Association presidents, past presidents and executive members, some of whom are here today. Thus, we feel it is easy to explain our perception that our requests and our partnering over the years in course delivery was in fact collaboration.

Regretfully, we are putting forward an amendment withdrawing "certified parks technician" from the bill. We will eagerly watch the Ontario Parks Association in delivering alternative competency-based parks training, meeting the training needs of the parks sector in our great province. We wish them well.

In summary, this bill formalizes our designation process for our members. It recognizes the efforts of employers and employees to meet basic competency in the workforce. Our 49 years and the thousands of recreation facilities professionals we have trained are testament to this designation process. I ask the question: If the ORFA didn't bring this issue forward, who would have?

Regardless of the outcome of our bill, it is inspiring that parks and recreation facility issues are being debated here today. I thank you for your time and consideration.

The Chair: Thank you, Mr Wright. Would anyone else like to speak on behalf of the applicant? If not, then questions from committee members to the applicant?

Mr Delaney: I have a question. On page 2 of the bill under section 9(2), which is called "Offence," you say, "Any person who is not a registered member of the association is guilty of an offence if the person takes or uses any designation set out in subsection (1) alone or in combination with any other word, name, title, initial or description, or implies, suggests or holds out that the person is a registered member of the association." Can you describe to me what work you have done to ensure there is no inadvertent name collision with any other association?

Mr John Milton: My name is John Milton, executive director with the association. If I understand the question correctly, it's related to the designation initials that follow the actual registered recreation practitioners.

Mr Delaney: No. How do you know that no other association of any type uses these initials?

Mr Milton: The honest answer is, we do not. We do not know that.

Mr Delaney: As you sure that putting forth this provision is wise, as you can inadvertently expose someone or some organization to litigation on behalf of your association, through no fault of theirs, or conversely, expose your association and its members to litigation if such a name collision occurs through lack of due diligence?

Mr William Upper: If I may respond, please, in discussions with Laura Hopkins and the Legislative Assembly, we were told this is a standard part of the legislation that goes through any private bill. We have, through our association, advised and publicized the writing of this bill in accordance with the guidelines set forth by the government of the day. We also put forth a resolution through municipal councils, OMA and ROMA, which we sent to every municipality in Ontario, and received nothing but positive feedback related to that.

The feedback we received initially from the ministry asked us if we would be in consultation with other organizations. We took a step backwards and have attempted to speak in consultation with OPS about the designation. This is why we withdrew and made the amendment to our act today.

Mr Delaney: You haven't answered the question, though.

Mr Milton: But your question is too vague to answer, sir. How can any organization come before you today and answer such a question, other than putting out the advertisements and going through the system your government of the day has set out for us to do? That's what we did, to the best of our ability.

Mr Delaney: Are you aware of any other organization, and what effort have you undertaken to research whether any other organization uses the letters RRFO, RRFS, RRFM, RRFA, CIT, CAT or CPT?

Mr Milton: I'll turn that over to our president.

Mr Wright: Early in the process we were speaking with Susan Wright. I'm not sure of her position, but it was when we brought the bill forward the first time. She had done a search and the only issue was "counsellor-in-training" related to our CIT. Because of the international aspect of the CITs and the relationship we have with the NHL, it was impossible for us to change that. My understanding of that clause is that we won't be seeking out counsellors-in-training to take punitive action against them. That would be the worst-case scenario. We left that clause in specifically on the recommendation of counsel and the clerk's office here that it was standard procedure.

Mr Marchese: We certainly appreciate the work you're doing. I don't think that's what we're disputing. Your assertion that there are no implications to government is generally correct in terms of cost. There is no cost to the government. But there appear to be other implications to other possible bodies doing this type of work.

What alerted me to a possible problem was the words in the preamble that speak to "the exclusive use of the

designations." I thought this presumably presents a problem to other people providing this kind of service. They could be in cities or universities or colleges or somewhere else. In your mind, are there implications, not to government but to other bodies doing this, if you have the exclusive designation in these various areas?

Mr Wright: We would also hold the exclusive liability, so I would think that it would be incumbent upon us to—

Mr Marchese: OK. I understand the liability issue. I'm just wondering whether in your mind—

Mr Wright: We do openly accept equivalencies in all our training components of the designations.

Mr Marchese: I understand. I asked a different question. In your mind, is there a problem in terms of getting the exclusive designation and how that shuts other people out? Are there costs to other organizations implied if you have the exclusive designation in this field in terms of possible training?

Mr Upper: If I may, if we don't do what we do, who does it? For instance, we are only the Ontario Recreation Facilities Association; heavy on the word "facilities." We do not go into other regions or areas of expertise. We never have nor do we intend to. Our roots are in arenas and pools and so is the legislation.

1050

Mr Marchese: I understand that. We just got this about five minutes ago; I'm not sure you've seen a copy. Do they have a copy as well? You do?

Mr Upper: No.

Mr Marchese: Can they have a copy too? This isn't something we've seen before. We just got it.

Mr Upper: We have not received it.

Mr Marchese: We didn't either, except at the moment. You're about to get it, and you'll have a chance to see it as fast as I did.

They make reference to the fact that you perhaps may not have consulted broadly with other affected groups. They make reference to, in the fifth bullet:

"The proposal, if it remains in current form, could drastically increase the cost of required training as the training would be provided by a sole source provider—the ORFA."

Then they go on to say, "The city of Mississauga recently certified its own internal trainers for pool operator certification and constructed an expanded internal training program out of concern over the high cost of sending staff outside of the municipality for ORFA courses. If this is a concern for Mississauga, it must be a concern for many other municipalities."

Is that a legitimate concern?

Mr Upper: If it is, it hasn't been brought forth other than at the eleventh hour when we sit here before you. When we spoke to the ministry, my understanding in presenting a bill through the legislative counsel was that we need to advertise, we need to promote.

When I spoke with Trevor Day's office, Trevor said it's implicit. "What ministries should we contact?," we asked, and one of them that was listed was the Ministry of Tourism and Recreation.

We received no feedback from the Ministry of Tourism and Recreation at that point, in fact. Speaking to Susan Klein and then Laura here, Laura finally picked up the phone and called the minister and said, "This is coming down. Do you have any comments?" It was at that time that the ministry started to move, after we had sent the necessary legislation.

Our belief is that we've notified all the necessary parties and that the ministry felt they should notify other groups. They should and we're complicit to that. When they said, "Have you talked to OPA?," we did and moved accordingly. We don't believe that we provided any legislation changes other than complying with your rules and regulations, and we don't believe it's going to cost any more money.

This year, I know for a fact that we don't comply and we don't require that people come to Guelph or any one of our regional training sessions. However, the city of Ottawa, which is a member, but does not pay for its members to come—four individuals of the city of Ottawa attended Guelph this year, took their annual leave to come to Guelph, take their courses and pay out of their own pocket, because they believe our association offers that training. It's the training we're looking to do here. It's the training we've been doing for 49 years.

If Mississauga doesn't want come aboard, OK, Mississauga doesn't want to come aboard. I work with Algonquin College. I've been teaching there for close to retirement years, and we recognize the validity of this association. By the same token, other colleges do not. We don't force them.

Mr Marchese: What of the point they make? It could "increase the cost of required training, as the training would be provided by a sole source provider"? Is that an unfair criticism to make?

Mr Wright: I think so, because our policies and procedures are very clear that we don't hold ourselves up as the only provider. Say, for example, the city of Mississauga develops their own internal program. Our policies and procedures would dictate that we have to assess that and if it meets the minimum level of our requirement, then we would grant that.

Mr Marchese: But the problem would be that if you're seeking exclusive designation, then no other organization can have those designations. I guess they could call them something different, but if you have that designation, it means no one else can offer that training in that particular field, as designated by—

Mr Upper: Only as recognized by the association, sir.

Mr Milton: If I could jump in again. It's not so much the exclusive use of training, it's the aspect of training that would be recognized by a designation that would only be issued by our association. There's nothing to prevent any other organization or larger municipality from doing internal training that meets their needs. I'm absolutely sure there are competent, well-trained individuals within those employment settings that can cost-

effectively provide that kind of internal training. The only difference through the association is the acknowledgement that it's a program that has been created through the auspices of our association and not an exclusive—

Mr Marchese: OK. That seems reasonable as an argument. I don't know whether the parliamentary assistant—is there legal staff on this committee? Do we have someone that offers advice with respect to this particular issue that's just been raised? I don't know if you heard.

Ms Laura Hopkins: I stepped away from the microphone for a moment. Could you ask your question again?

Mr Marchese: I was saying that if they offer a specific designation and have exclusive use of that designation, how does that affect any other group that would want to offer training? Would they have to have a different title in order to be able to provide their training, given that they have exclusive use? What they're saying is—if I paraphrase it correctly—it only affects them and their organization in terms of their designation and that nobody else is affected by it, because they can do whatever they want with their own designations.

Mr Milton: Absolutely. We are not the only training association in this province. Under that auspice, the designation the ORFA would issue is based on some set skills and knowledge and competencies—

Mr Marchese: As it relates to your organization and no one else.

Mr Milton: —that we have developed over time, period. Exactly. It does not prevent any other organization from doing exactly the same or offering various training opportunities under a different format.

Mr Marchese: The reason I raise that question is because a representative from Mississauga says, "The proposal, if it remains in current form, could drastically increase the cost of required training as the training would be provided by a sole source provider."

The Chair: Ms Hopkins?

Ms Hopkins: The effect of the bill would be to allow only the association to give its members the designations listed in the statute. The legislation doesn't say that other organizations can't engage in training. The effect, though, would be that other organizations couldn't give their graduates the designations that are listed in this statute. Only the association—

Mr Marchese: They would have to give different designations.

Ms Hopkins: Yes. I understand that there are staff here from the Ministry of Tourism and Recreation who may be able to speak to the sole source issue.

The Chair: Members of the committee, there will be other parties that we'll be hearing from, so if you could just focus your questions to the applicant at this time.

Mr Marchese: OK.

Mr Phil McNeely (Ottawa-Orléans): I, myself, in business, and people working with me, belong to many of these organizations and they're extremely necessary when you're talking about smaller municipalities and medium-sized municipalities. Even the larger municipalities can benefit by them. I'm sure you wouldn't tell the city of Toronto they must take your courses, they must take your certification, but it's extremely important for the greater part of Ontario to have this training. So that was one of the questions. It's not mandatory for municipalities to require these letters behind their names to hire people. That's up to the municipalities.

I think what you put together is a great organization and the membership will decide on where you go with your training programs. That will be up to the membership.

I just have more of a comment than anything. The drainage engineers did this. I participated in that for many years as a drainage engineer. The drainage superintendents did this. The consulting engineers did this. The association of professional engineers did this. An organization like yours will be able to set standards and provide the training that a small municipality cannot provide. So I think that's the role you're filling, and it's not mandatory. Those would be my comments.

Mr Upper: Phil, thanks very much. No, it's not mandatory and it's never been. I would like to use myself as an example. I'm also a councillor for South Stormont. Our recreational director is not certified, does not have a diploma, and I teach at a community college.

I did not take the position on council that it's mandatory that this person be upgraded; that's up to him. It's up to the committee. It's up to the council as a whole. We're not telling people you must come to Guelph and take our courses, you must attend them. We advertise them, you show up, you do the requirements, we give you the diploma. The community college diploma is based on that philosophy.

We don't tell people you must hire people who graduated from community college, do we now? Certainly not in our industry, and this is my 34th year in this business. We never have. Possibly over the 34 years it has evolved to that, but it is still not a standard in this province, and we're not asking for it to be a standard.

We would like to give designation to those people who believe we can offer the best possible training that we know how to offer and give them our designation that has been recognized in this province for well over 50 years, to be honest with you.

1100

Mr Fred Horvath: My name is Fred Horvath. I'm a past president of the Ontario Recreation Facilities Association. I'm a past member of PRO. I am the director of operations for the municipality of Clarington and I've been chair of the Canadian Recreation Facilities Council for 16 years.

I just want to make a clarification to a point raised one member ago. Number one is, in yesteryear, when the dinosaur was still around, this association only offered a training opportunity once a year to members across this province.

That training institute was at the University of Guelph. They realized in time that that could be cost-prohibitive to some of the small-town communities across this prov-

ince. Since that time, they still continue to operate the University of Guelph program. Next year—for members' interest; I know you've seen it in the correspondence—will be their 50th year of providing training to over 7,000 practitioners.

They also, in the last five to seven years, have taken many of the programs on the road to municipalities that wanted to train a greater number of members from their municipalities at a better price, because obviously travel and accommodation is a factor to most municipalities.

I find it odd—and I have a lot of respect for all municipalities across Ontario because I've had the privilege of serving and training in all of them—that over the last few years Mississauga has been a strong supporter of the programs at the University of Guelph; I believe just under 400 members have attended over the last seven to 10 years. If there's a concern from any member, I think that if you check the fee structure for the University of Guelph programs or any of the OFRA programs, it is certainly very cost-favourable.

ORFA, in their wisdom, decided to separate the tuition costs and the accommodation costs so that it wasn't a disabling factor. So I think they've been very receptive to package the program on the road to assist as many municipalities as far up as Dryden, Deep River, White Rock etc.

The Chair: Mrs Van Bommel, do you have a question for the applicant?

Mrs Van Bommel: Actually, I would like to ask counsel for some clarification, if that's possible. The preamble talks about exclusive use of designations. Is that common practice? Do all designations have to be entrenched in law?

Ms Hopkins: No.

Mrs Van Bommel: You were talking about other facilities that do training and would possibly use other titles. Would they in turn have to also come through and have those designations entrenched as well?

Ms Hopkins: No.

Mrs Van Bommel: Then my question to the presenters, to ORFA, is: Why are we coming forward and asking for this type of designation to be entrenched in law itself? Is there a particular reason? If you could have done this without having to come through legislation, why are we going through legislation?

Mr Wright: In my remarks I said that this is a means of getting recognition for what we do. Those members of ours who have worked the trenches in the recreation facilities have taken the training, as Bill referenced, on their own, paying their own way. It validates our process and it strives for the recognition that we wanted and it also begs the issue back to 1992 or whenever this document came out—and we can argue about the validity of something from 1992. It's recognition for what we do.

Mrs Van Bommel: Further to Mr Marchese's question, in the last paragraph in the last statement it says "the city of Mississauga." "If this is a concern for Mississauga, it must be a concern for many other municipalities." I understand that you have done some consultation. Can you tell us the percentage of return that you've had on the consultations you've done with municipalities?

Mr Upper: I guess the easiest way to answer that is, as an alderperson, I passed a resolution at our council in South Stormont a month and a half ago. It was circulated through AMO and ROMA to every municipality in Ontario. The bulk of the resolutions that came back to our municipality I think were sent to Trevor Day, who formed part of your packages. They're still coming in as we speak.

It was noticeable, though, to be fair to the committee, that the larger municipalities sent back a notice to our municipality, to our clerk—and I've got a copy—stating that the councillors or aldermen of that city have been notified of the resolution and if they would like to bring it forth as a resolution at council for support, they would.

We received—I'm going to guess—65 positive feedback and support for where we are today with you people. We received resolutions from two councils—and if you ask me their names, I don't know without looking them up—that were not in support. Both those municipalities were from the northern part of Ontario where their recreational director was also their fire chief. Neither of those municipalities were members of our association, so I didn't pick up the phone and say, "Please do this." It's just the way things are and we were happy with that. I'm personally happy, in my skin, that we've notified every municipality in Ontario of what we are attempting to do and why we're attempting to do it.

If I may attempt to respond to your comment: Various degrees that I hold are not something that sets the standard for what you want to do; it's for what you want to know. That's what this association is all about. I think, after 34 years of my life, 50-some years as an association, that the persons Jim referred to earlier—we do not use the derogatory term any more of rink attendants or rink rats. First of all, you can't hire them; the liability is too high. We've been training those rink rats as technicians and it has taken us 34 years to get here and we'd like to get recognition for the people working in our facilities because of that. It's really as simple as that; nothing more complicated than that.

Mrs Van Bommel: Have you done any survey or consultation with other entities besides the municipalities that might be impacted, including the community colleges that currently do training of this type?

Mr Upper: If I may, community colleges do not do training of this type. I wish they did, but they don't. That's another day and another minister. I'd like to turn that comment over to our executive director, because I know we've had some discussions with the Ontario Parks Association.

Mr Milton: The aspect of community colleges providing this kind of training I think stems back to the original days of the association back in 1947, when the organization was founded by a small group of arena managers who simply wished to share information. From those founding days, the organization has grown to where it's at today. We continue to run not only, as was stated

earlier, an annual training program, but the regional training programs will put through anywhere between 1,500 to 2,000 people per year in competency-based one-week training programs. These are individuals who work within our industry, within the recreation field. These are not students graduating from community colleges.

Community colleges that do graduate—these are individuals coming out with a recreation leadership diploma in most cases, through the CSA—Canadian Standards Association—accreditation process. There are only two community colleges in this province that have recognized facilities components. They would be Seneca and Algonquin College. The association has found those abilities to recognize those individuals who graduate with that specialization that leads toward the facilities component as opposed to a generalist in recreation leadership. So the numbers that we continue to see attend our training programs are those very individuals who work in the industry and are seeking the recognition, whether as a planned professional development initiative with their employers or as an individual striving to be better in the industry.

Mrs Van Bommel: Are you the sole provider of training at this point?

Mr Milton: The sole provider of?

Mrs Van Bommel: Of training of this nature.

Mr Milton: The sole provider? I don't think we're that—

Mrs Van Bommel: Who else is providing that type of training?

Mr Milton: I don't think there are other organizations that offer the kind of training programs, but I would draw you to something as simple as the National Hockey League applying their shield of recognition to a certified ice technician designation that we offer throughout North America. That's an organization that has contracted our association to deliver training for their NHL building operators.

So, yes, there are other facility associations across Canada. Is there another recreation facility association in this province? No. Are there other organizations that provide building maintenance and operation-type initiatives? Absolutely. There's a need for that area of training. I think we're a specialist in some of the training aspects that we provide. That recognition goes way beyond Ontario in a lot of cases.

1110

The Chair: I want to remind the committee that we will be hearing from a number of other interested parties as well. There will be the opportunity to ask them questions directly. There are two more members who would like to speak.

Mr Martiniuk: Thank you, Chair. I think it's admirable that you wish to upgrade the profession. That is something that should be encouraged. However, you could do that right now, as you've answered the question.

What you're asking is that the Legislature, the voice of the people, approve your courses and your degrees or certifications. That leads to a problem, because it's akin to the law society, which is a self-regulating profession, the universities and the colleges, because they have one thing in common: They are responsible and have a duty to the public.

I've read your objects in section 2. There's not recognition of a duty to the public. There's a recognition of the association's duty to their members but not to the public. Following that thought, all these self-regulating professions also have public members on their board of directors, for good reason. They are organizations that do things that are recognized by this Legislature and the crown. Your proposal is silent on that. You're neither fish nor fowl.

That leads to a problem with me. I checked yesterday, for instance. We happen to have a private ice rink in Cambridge. They cannot recall ever being notified regarding this proposal, so I really don't know whether they're in favour of it. Were private organizations, growing ice rinks in Ontario, notified?

Mr Milton: Notification was extended to any current member of the association. So if there are facilities out there from the private sector that are not members of the association, they choose to operate under their own four walls, they may not be aware of what's come before you today.

Mr Martiniuk: Very simply, you're coming to ask for public recognition of your certification and you are not offering any safeguards to the public other than your own goodwill.

I'm not suggesting that you're acting in bad faith. There are no safeguards built in so that we can say to the public, "Yes, this is a worthwhile certification because we have some control over it: members on the board of directors; a duty set out in the objects to the public." Both of those are lacking. In my mind, that leads to a difficulty. Thank you.

Mr Dave Levac (Brant): Just a quick comment. Bill, I think we've met each other a couple of times wearing different hats. You wear a lot of them.

Mr Upper: I've got a lot of hats. None of them fit well.

Mr Levac: Not to my understanding. You do it well.

I want to follow up on comments you made in support of what you've said in terms of the intrinsic value of these types of designations and the use of. The question I have is about the other side of the equation, not your organizations but the people who will be looking at those designations if you're the sole provider. I'll use the example you used about the NHL.

It seems to be, when that gets attached, that becomes the important part of the hiring. I have three or four degrees behind my name. If I see that on a resume, the first thing that goes off is, that's a good, positive check mark. If no one else is able to give that designation and yet their training could be equal or just as good as the training that's received by your organization, would that not be a disadvantage? I'm not asking you to speak for them, but would it not be a problem somewhere down the line, that sooner or later everybody says, "If I don't see

that designation, I'm not going to consider them in the job interview first"? A lot of people get thrown out with the garbage if they simply don't have certain designations. I went through a hiring process that said if I didn't have this degree or this certification, not to even bother applying.

Mr Upper: The simple answer to your question is yes. I don't think I would have retained or had my position at Algonquin College had I not got my necessary degrees over the years and maintained them. I don't think you retain tenure at university unless you've done adequate research. I don't think you retain any certification as an accountant or, ironically—the group that was presenting before you today—in the advertising industry. We don't have the general public involved in our association, although we have private members who are part of our association who do have input. As a matter of fact Western Fair Sports—

Mr Wright: Rob Lilbourne.

Mr Upper: Rob Lilbourne is a member of our board of directors. They run it well.

Could it happen? It may. I wish I had that crystal ball. I don't have that crystal ball.

Mr Levac: To follow up very quickly: Not to try to put water on the fire, but as a point of clarification, that's not the purpose of the request for the designation, that the only person to give this out therefore controls the hiring and firing of people.

Mr Upper: No, it's not. With due respect to the gentleman from Owen Sound, I was just at the convention of rural municipalities in Owen Sound. I spoke to the facilitator there to deal with, "You haven't been a member for a while"—and I'm out selling memberships. He said, "I haven't had time."

Is the Ontario Recreation Facilities Association recognized from coast to coast? Yes, it is. British Columbia has seconded us for advice on what they would like to do in their province. The province of Quebec has advanced itself to us, and we're advancing ourselves to them, but we don't go out and seek to promote ourselves. They've come to us by the same token as, if I may reiterate, I don't tell people, "You should hire a community college diploma graduate in recreation facility management." Do they get hired? Ninety per cent of graduates get hired over the years. I wish they all would. That's my business; I'm a teacher. But do I make it mandatory? No. I would not presume that I would have that type of insight and knowledge.

Mr Levac: Finally, Mr Chairman, and thank you for your indulgence, I'll come back to my praise and support for the concept of advancing and evolving to a level of expectation that, when you see that designation or when you see this organization, you've evolved yourself into this professional organization with the utmost respect for what you do, including parks, recreation and facilities. It's long overdue. I think all the organizations have indicated as part of their mantra that we're hearing, "We're elevating ourselves, because if you want to be somebody in this field, you're now moving into something that we just take for granted."

My concern would be whether all the organizations can come together and say, "Is there a way for that designation to be obtained in variations as opposed to being the sole provider of?" I think that might be the problem. Having said that—

Mr Upper: If I may just try to clarify, Mr Chair—

The Chair: Members of the committee and the applicants are mindful of time because we're only sitting until 12. There are only about 40 minutes left and there are a number of other interested parties who would like to speak to this matter. But I will allow you to answer the question, please.

Mr Upper: Thank you. We're not trying, nor would we wish, to advance our association and dispel another association. I would suggest to you that if you would give us the indulgence to approve that our bill move to second reading, within a year's time you're going to find the other organizations that offer services from a programmer—and that is a layperson's term—in this province advancing their standardizations.

We're but the first of a battery of people who offer service to the public of Ontario who have not done this. They've thought of doing it; they just haven't done it yet. It was thought back in 1991—this is your document, not ours. We all came together. They're all listed in the back here, every association we just spoke of. They will be coming forth and saying, "We'd like to get certification also." Why us? Because we raise our own funds, $1.7 million a year, and we expend $1.7 million a year. We don't even have a reserve account. We use that money to retrain our people, our members. We don't go after; we don't seek out; we promote our courses. That's the short and the long of it. Again, it's to elevate, as this gentleman just said, the people who work in our recreational facilities, our community centres and our pools—not the programmers, not the grass cutters, not the operators outside; the people internally who work in harmony with the other associations.

Recreation has been somewhat confusing over the years, but we're trying to clarify what we do, and hopefully, if we can clarify what we do, the other associations, I would guess, will be before you as time goes on, seeking the same type of legislation.

The Chair: Thank you, Mr Brownell and the representatives of the ORFA.

1120

The Chair: I'd like to invite the Ontario Parks Association to come forward at this time. Welcome. Please introduce yourselves before you speak.

Mr Vic Hergott: Mr Chairman and members of the standing committee considering the Ontario Recreation Facilities Association Act, 2004, known as Bill Pr4, my name is Vic Hergott, director of parks and recreation for the city of Brantford. But more importantly, today I am here speaking to you as a proud past president and life member of the Ontario Parks Association. I'm joined by our association president, Paul Ronan, from the city of Toronto, and Mr John Howard, who is the association's executive director.

Just now, in the last presentation, we heard that the Ontario Recreation Facilities Association has withdrawn any reference to "certified parks technician" or "certified parks training," our concern. We acknowledge that, but we felt it's important to be on the record with our presentation, which is as follows.

The Ontario Parks Association and its more than 600 members continue to enjoy a rich history, both in Ontario and across Canada, having recently celebrated its 50th anniversary since reorganization. In fact, the association was initially founded in 1936, some 68 years ago, and has been the only true parks association in Canada, serving as stewards of our landscape and environment.

Education and professional development has been a long-time commitment and priority for the association. March of this year marked the association's 48th annual educational seminar, a venue offering a variety of training sessions for entry-level employees through to supervisors and managers in the green-space industry. In addition, the association has established solid recognition as a leader in playground design, safety and maintenance training. For the past four years the Ontario Playground Academy has toured the province to deliver an intense four-and-a-half-day training opportunity, rewarding those successful with the accreditation of "registered playground practitioner."

In 1999, the OPA was proud to be chosen the lead partner with the Ministry of Tourism and Recreation in the development and 2001 release of the well-acknowledged Playability tool kit, an invaluable resource in the planning and development of accessible playgrounds and play spaces.

The OPA is also regularly called upon to advise on and become involved in relevant areas of its experience and expertise. For example, we are actively involved presently, with pesticides and the IPM, with urban forestry pests that threaten this province.

In speaking to the proposed Ontario Recreation Facilities Association Act, 2004, our association has concerns. Certainly, the ongoing progress of the ORFA is to be applauded. They have worked hard, they have been innovative and they've proven themselves a very credible organization in their specific areas of expertise: facilities and facility-based operations.

Our two associations have worked harmoniously together over the years, on occasion partnering in mutually beneficial training opportunities. Also, it is no secret that the ORFA has, for a number of years, annually contracted three to four OPA members to deliver parks-related sessions at their training program in Guelph. However, for some reason there appears to have been an assumption or understanding by some members of the ORFA—possibly in part because of the aforementioned arrangement in contracting these OPA members—that the entire Ontario Parks Association was endorsing their pursuit to become empowered as the provincial organization to grant a host of professional designations, previously including one proposed to be known as a certified parks technician or CPT.

As mentioned previously, the Ontario Parks Association continues to be regarded and respected as a key leader, advocate and resource to the parks, green space and environment sector, provincially and outside of Ontario as well. The association feels strongly that the proposed designation of certified parks technician or CPT will compromise its position, status and future endeavours and, further, create unnecessary confusion in the parks and recreation field.

In closing, I submit the following resolution from the Ontario Parks Association past presidents, authored at a May 5, 2004, meeting:

"Whereas the province of Ontario is currently considering a private bill at Queen's Park recognizing the Ontario Recreation Facilities Association as the certifying body for recreation facility professionals that would empower the ORFA to govern its members and grant the following designations: registered recreation facilities operator, registered recreation facilities supervisor, registered recreation facilities manager, registered recreation facilities administrator, certified ice technician, certified aquatics technician and certified parks technician; and

"Whereas the Ontario Parks Association is concerned and objects to the ORFA being unilaterally recognized as the sole agent for the delivery of parks-related training; and

"Whereas the OPA has a long demonstrated history of providing quality education and professional development to the parks profession; and

"Whereas the OPA continues to provide the Playground Academy, which is the recognized training for the registered playground practitioner, as well as serving as advocate for the Playability tool kit, all according to playground standards developed by the Canadian Standards Association;

"Therefore, be it resolved that any reference to certified parks training or certified parks technician be removed from the current private bill."

Thank you for your time and attention.

The Chair: Thank you, Mr Hergott. Questions from committee members?

Mr Marchese: On page 3 you state, "The association feels strongly that the proposed designation of certified parks technician will compromise its position, status and future endeavours, and ... create unnecessary confusion." Presumably, if this affects you in this way, other organizations will have the same concerns about their designations. But what you're saying is, "As long as you exclude us through the amendment, we're OK with the bill."

Mr Hergott: That could be coined as being correct. However, in the resolution, I believe there's a reference to "unilaterally."

Mr Marchese: I was going to get to that as well.

Mr Hergott: And that I would present as being broader and beyond the Ontario Parks Association. But certainly I'm here today, joined with my colleagues, as representing the Ontario Parks Association.

Mr Marchese: I understood that. I have another question mark around the issues of, "The Ontario Parks Association is concerned and objects to the ORFA being unilaterally recognized as the sole agent for the delivery of parks-related training." But they're saying—and you heard them argue this before—that that only affects them and their organization in terms of a designation. Others can do what they want. So it shouldn't be a problem or a big deal. Is that a concern to you?

Mr Hergott: Yes, it is. Quite frankly, I think I would state the example that this could be recognized as a benchmark. Benchmarks, with very creative and very aggressive marketing, can certainly portray this association in this scenario as being the certifying body, certainly in the province and possibly, in the immediate future, nationally. We've heard, to their credit, that they've been recognized by the National Hockey League and others who are stateside. That's terrific, but, again, in their expertise, which we feel is facilities and facility-based operation.

1130

Mr Marchese: What in your view could be done to try to deal with the issues they've raised, which appear to be legitimate? How do you get the various groups together to create standards so you can all be happy with that? Do you have suggestions as to how to do that?

Mr Hergott: I believe some of the comments made in the earlier presentation are right on the mark. There was reference to the attempt in the early 1990s by the parks and recreation field to create a certification process. Certainly, I would encourage that, and I believe I speak on behalf of our association. We would encourage that that endeavour be picked up and revisited.

Mr Marchese: Who would do that?

Mr Hergott: I believe the Ministry of Tourism and Recreation would be a good lead.

The Chair: I'm really mindful of the time, because I want to fair to the other groups that are here. I know that Mr McNeely would like to ask a question.

Mr McNeely: The resolution you brought from your association deals with the CPT, certified parks technician. Would it be just the one, number 7 on page 2 of the bill, that you are concerned with?

Mr Hergott: I'm sorry, I don't have a copy of the bill in its entirety.

Mr McNeely: The only thing that looks like what you were saying, the certified park technician or CPT, would be number 7 on that list that you feel is getting over into your area, and that's your resolution from your organization.

Mr Hergott: That's right.

Mr McNeely: Otherwise, as far as the facilities operator, facilities supervisor, facilities manager, facilities administrator and ice technician, were there concerns there?

Mr Hergott: No, there weren't. Again, this is the expertise of that association. We recognize that.

Mr McNeely: Just a comment; I think there is a real void in Ontario for many of these training programs, and sometimes the void is not there. I would just like to know from legal counsel, how do you go about changing a deletion from that at this stage of the bill?

Ms Hopkins: If we want to change the text of the bill, we deal with it by way of a motion to amend the bill. The applicant has had prepared for the committee today two motions to amend the bill in order to take out the reference to "certified parks technician." When we go to clause-by-clause, that's the appropriate time to propose the motions.

Mr Ramal: From listening to the first and second group, I guess some kind of conflict of interest exists between the two groups. I would recommend being given some time to consult other areas. For instance, in London we have a lot of huge hockey arenas and we also have a lot of recreational parks etc. I have no idea what is the input of my area in this matter. As my friend said a few minutes ago, we have to go back and consult. This I think is the best way to deal with this issue, in order to have a fair vote and support.

The Chair: Thank you for that comment. I think, to be fair, we should hear the other groups that are here before we make a final decision. Thank you to the Ontario Parks Association.

The Chair: I would like to invite Parks and Recreation Ontario to come forward, please.

Ms Claire Tucker-Reid: The clerk has handed out a one-pager that summarizes Parks and Recreation Ontario's position.

The Chair: Please introduce yourself first.

Ms Tucker-Reid: My name is Claire Tucker-Reid. I have most recently retired as the general manager of parks and recreation for the city of Toronto, so I'll be offering some comments around that to set the context. I'm now in a consulting firm, providing strategy development to the parks and recreation field.

In terms of setting the context, I'd like to state first and foremost that we are all serving the same people and we have an obligation to ensure that our programs and our facilities are safe and meet the needs of the residents of Ontario. I think by setting the context we can say that there are many organizations that specialize—but frankly many of us belong to more than one organization, many of us have components of our job that serve arenas, parks, aquatics. So I think we have a great opportunity here to work collectively to develop a great model that is inclusive, that meets the needs of Ontarians but meets the training needs of parks and recreation practitioners on a more holistic basis. That is the crux of my presentation, and I'll certainly get to that in the conclusion.

First of all, Parks and Recreation Ontario represents supervisory staff, management staff, recreationists, park staff, facilities staff etc. As I said earlier, we are all members of the various organizations; it's just time that we work collectively to provide a quality product so that Ontarians can use our facilities knowing that there's a holistic quality assurance model in place.

Parks and Recreation Ontario commends and supports the Ontario Recreation Facilities Association and we

recognize that they are a respected leader and expert in facilities management and operations, as Ontario Parks is in parks, as Parks and Recreation Ontario is in terms of general organization and management and various components, as well as aquatics and services for people with disabilities.

I think the legislation that's being considered today needs to be broadened, needs to be more consultative, and we could bring back a product that is supported by all. The implications of the existing legislation are of concern to the various municipalities in terms of liability, enforcement, hiring policies, mandated training and potential duplication. We have heard from the organization that it is to recognize people's contributions and their efforts, but frankly I think it's much broader than that. It's to ensure that Ontarians are walking into a facility or a park that has quality standards and that the people who are offering the services are offering from a model that ensures that quality is there.

The city of Toronto hires 1,600 full-time staff and over 12,000 staff annually, and we are clearly interested in certification to ensure that Torontonians enjoy a standard level of service across Ontario. We believe there needs to be further consultation with large and small municipalities. We all have the same concerns, but we can build a better product collectively.

Parks and Recreation Ontario members have also asked for some clarification around Bill Pr30, which enables Parks and Recreation Ontario to certify park recreation directors in Ontario. We are developing a quality assurance model for parks and recreation provision across Ontario. It's in the initial stages. There will be full consultation around that, to build a broad-based model and then look to individual certification under that umbrella.

We would like, and we have asked the president of the Ontario Recreation Facilities Association to work collectively with us, to ensure that one model is developed and delivered, that the various organizations with specific levels of expertise take carriage of that training. I think we would see much more ownership in all 442 municipalities across Ontario in the delivery of parks and recreation services as well as our partners in YMCAs, Boys and Girls Clubs, and private providers. So in order to support a legislated program, we would ask that, through amendments or direction or delay, we be directed to work collectively, bring back a comprehensive model that will ensure that Ontarians are provided with safe and needed programs in parks and recreation.

1140

The Chair: Thank you, Ms Tucker-Reid. Any questions from committee members?

Mr Ramal: From the concept, I think it's a good idea to pass this bill. But do you think we have to consult other municipalities and organizations?

Ms Tucker-Reid: Clearly, municipalities and organizations providing complimentary, specific services in parks and recreation, that is: parks, Parks and Recreation Ontario, the aquatics branch. It's a broad field. To ensure that we have a good model, everyone should be consulted and work collectively. It's the only way we'll ensure that Ontarians have—

Mr Ramal: But you agree the concept is a good approach?

Ms Tucker-Reid: It's an excellent concept. It needs to be broadened.

The Chair: Mr Delaney, please be brief with both your question and answer.

Mr Delaney: In your opinion, should this consultation take place before or after this bill is passed?

Ms Tucker-Reid: Clearly, before.

Mr Delaney: Thank you.

The Chair: I'd like to invite Mississauga parks and recreation to come forward at this time.

Mr John Lohuis: You've probably had a chance to read the documents so I won't go through each element of it, but I will take a bit of time to show why I'm here.

The Chair: Please state your name for the record.

Mr Lohuis: John Lohuis, director of recreation and parks, city of Mississauga.

We received the resolution from the township of Stormont and, as is the case in large municipalities, it goes to the clerk's department, gets on to the city communications agenda and eventually makes its way down to people like me who have to respond to these resolutions.

It resulted in my requirement to brief the mayor this morning at 8 o'clock simply because of the timing and the way the committee's and the council's schedules are. This came to us relatively late, despite the date of the council's agenda going forth on March 9, originally through the township of south Stormont. It's not a whole lot of time to have a lot of people respond.

I'm here because we're a consumer. We are a client. We are a large municipality that, frankly, is a member of all the associations—Ontario Parks, the ORFA and PRO. It's alphabet soup. I can remember in 1971 I was a young student in attendance at a conference in this field where there was an attempt to unify the field and to unify many aspects of it. Here we are 30 years later, or better, talking about the same thing. I would say we have had joint efforts with ORFA. In fact, Mississauga, as has been stated in the past, continues to support the ORFA. We believe in its standards. We believe in what they are doing. We've even hosted regional workshops at our own facilities just to facilitate inexpensive and wider access to quality training.

I think the issue suggested here is that it become more mutually exclusive. It's unclear, even from my perspective, and I've attempted to find out, to what degree there is overlap, duplication and excess effort involved in the resolution as it is currently worded.

One concern I have is that it also moves into the managerial and supervisory ranks, which aren't in my centres. I have over 40 separate centres that have managers and supervisors, and they aren't all exclusively facility-based types of competencies; they're wider. I could do the same thing and suggest that maybe we

should take out certain other designations that include managers and supervisors because, as the past speaker had indicated, the field is somewhat wider.

From a consumer's perspective, we spent a lot of time five years ago indicating—and I have a compliance manager on my staff. That compliance manager's duty is to look at all the pieces of legislation that are in the provincial and federal realm to make sure that we have proper protocol, procedures and training to meet the legal requirements of providing parks and recreation and leisure in our municipality.

We've had that compliance manager now for over two and a half years. We have developed separate, internal, week-long training programs and formal modules of education for both parks and facilities, and we're moving on soon to training of front-line staff in clerical capacities. We actually document those modules on People Soft at a central location. We take attendance. We do all those things to ensure that we have appropriate due diligence in ensuring that people are properly trained.

Within that regimen, we send people to various associations and training. I certainly acknowledge the effort of ORFA in that I'm a strong supporter of what that group has done. What is uncertain is the impact that the designation itself will have. You'll have to try to do competency recognition. In other words, do people actually have the skill sets to be qualified? It's unclear to us as to how that would work. It's unclear about what it would mean in terms of pricing. Is pricing at their sole discretion? I would assume yes, because it would compete with anyone else who would choose to do it, but as the previous speaker indicated, it would set the benchmark. It would set the standard.

If I'm trying to defend a legal case for the city of Mississauga, it would look heavily into what was available for training, what would be the current benchmarks, what would people be expected to have in their training regimen, in their history, in their documentation that provides the municipality with its defence. So if this goes through in the current wording, I would assume that ORFA will definitely be required at the end of the day—maybe not right away, but it would certainly be something that would take hold and would be in credence, and probably it would be a good thing to do.

I think the field is much wider than that and needs more care and attention. In my brief, I made mention of the arborist certification. I have forestry staff and the past president of ISA—the International Society of Arboriculture—on my staff. A lot of effort was taken on doing that particular piece of certification, with broad consultation and a lot of homework being done. So I guess there are just too many unanswered questions from our end, and we would urge that more careful study and perhaps a wider approach could take place.

Finally, it seems that in the States, this isn't an issue. They seem to have found a way in the United States to use certified education units as the basis for allowing more partners, more people, more certification to take place amongst many states and many jurisdictions and many disciplines to allow people to have a recognized platform. Perhaps greater emphasis on that could even allow Ontario to be the leader nationally. I think Ontario doesn't take second place with what we do, and we should be striving for that.

Those are my comments, and I thank you for hearing them.

The Chair: Questions from the members?

Mr Delaney: Thank you very much for your submission. Just one question for you: Who should take the initiative and coordinate the wider dialogue that you and the other speakers have referred to?

Mr Lohuis: I'm now speaking as a member of multiple organizations. I'm frankly very tired of the interjurisdictional wrangling. I'd rather get on with the job. So I would prefer to see some form of a multidisciplinary, multi-organizational framework established—not exclusively government; not exclusively trade associations. It should be comprised of advice from colleges and universities, from a couple of key government representatives, from enough of the trade or industry representation that you form a solid, informed core. It's probably more important who is on the committee and what they have to contribute than who is, in fact, at the end of the day, represented, so that we don't have 40 people trying to move it ahead.

I think if the challenge is issued by this committee, and if the end result would be a solid platform of recognition and certification for this province, which we've all sought for over 30 years, then that result would be a great one to issue, and I think the field would respond. Who would initially coordinate it? I'd be happy to see the three partners or the three groups that were represented here: ORFA, OPA and PRO. They should jointly get their heads together and get on with the job.

1150

Mr Delaney: So do you feel that the bill as is presently proposed would make your life in the city of Mississauga simpler or more difficult?

Mr Lohuis: It wouldn't change anything. It would just be clearer. You would be formalizing certain key competency courses, and from a client perspective, I wouldn't have to guess as much about what really matters. It would mean that everyone would have a more transparent view of what would be the necessary standards to ensure safety and proper operation of parks and recreation facilities in Ontario.

I would welcome it. I think what we would do is examine our training modules and see what impact that would have on inside versus outside training. We have over 460 full-time staff and over 2,000, thereabouts, that we put through annual training in our training regimen.

The Chair: Mr McNeely, do you have to ask this question?

Mr McNeely: I'd just like to make the point again that when you talk about 1,600—was that new employees in the city of Toronto with recreation? We're looking at broader Ontario, where I'm used to populations of 15,000. We have to make sure we differentiate. I don't

have a specific question, but it's a big difference from the little parks in Rockland and Hawkesbury, where you have 10 or 15 employees, to these large ones that can afford their training programs. There's a real need. I just wanted to make that point again.

Mr Lohuis: I just have one final comment. I was a small-town director of parks and recreation in the township of Delhi, so I understand clearly what's being said. You do with the resources you have. I acknowledge that.

The Chair: I'd like to invite the Ministry of Tourism and Recreation to come forward.

Mr Lou DiPalma: Thank you, Mr Chair. My name's Lou DiPalma. I'm a manager with the sport and recreation branch of the Ministry of Tourism and Recreation.

The Chair: We'd appreciate it if you could keep your comments brief, within a couple of minutes.

Mr DiPalma: Very, very brief, because a lot has been said today that really echoes the views of the ministry. We certainly applaud the efforts and value the training opportunities and the extent to which the ORFA has been involved in the sport and recreation sector. We think they provide a valuable service in terms of providing quality training to the sector and elevating the standards. We certainly do acknowledge and respect that.

However, we believe that this specific bill, in providing an exclusive designation to this organization alone, will have unintended consequences across the broader sector that are not fully known at this time, so our position is that a broader consultation should occur and that there should be more sector individuals and partners involved in that consultation to fully understand these future consequences. We believe there should be a more collaborative approach. We believe there may be some issues with respect to training, with respect to what organizations are doing, with respect to liability issues, as was mentioned earlier, and with respect to hiring practices within the human resources area.

So our recommendation at this point is further consultation to make sure this is more a sector-driven initiative as opposed to an initiative that deals specifically with a sole organization.

Mr Marchese: Mr DiPalma, has your ministry made any efforts recently or in the past to bring these groups or other interested parties together to try to create one model for training and certification?

Mr DiPalma: Since my time in the ministry—

Mr Marchese: How long is that?

Mr DiPalma: It has been five years. The answer is no. What we do within the ministry is provide support to the various provincial sport and recreation organizations to try and further the sector. We provide support in the form of financial grant money, we provide some capacity building and—

Mr Marchese: Do you see this as a role that you could or possibly should be playing, other than just providing support with a few bucks here and there?

Mr DiPalma: I think this is something the sector should speak to. We have a role in that, but as was mentioned earlier, I think a number of organizations are well positioned within the sector to help and support and move this forward in a collaborative approach. We could certainly assist with establishing that collaboration, which is what we've done in the past in a number of areas.

The Chair: Thank you. Now I really have to cut off the questions, if any. Mrs Van Bommel, any final comments?

Mr Marchese: May I propose something and see whether Maria agrees?

Mrs Van Bommel: Can I speak first, if it's all right? Maybe we are in agreement already.

I want to applaud the ORFA for their efforts. It takes a lot of energy and time to initiate this kind of thing. In the kind of environment we are in today, we do look for standards, and the public wants the assurance that standards are established. As Member Levac mentioned earlier, maybe one of the unintended consequences would be that potential employers would look for certain types of certifications to imply the knowledge base that they need for the job to be done.

But I've also heard a lot of concerns expressed here today. As much as I applaud the effort to try to create the standardization for the industry, we need to address some of those concerns.

Chair, I would like to move a motion that we defer to a future date to give the proponent, the ORFA, the opportunity to address the concerns that have been expressed today.

The Chair: This is a debatable motion, so any discussion?

Mr Marchese: I agree with the deferral. I was going to propose something in addition to the deferral. If we were to defeat the bill, I think that would be an unfair thing to do to a group that's taken the initiative to deal with a problem that obviously no one has attempted to solve. I disagree with a few members who simply think that somehow this will happen on its own. It won't. I don't think the various organizations are likely to get together on their own. I don't. I think it's a ministry initiative, so I was going to propose referral and/or deferral, with instructions that the ministry actually bring these groups together, including other sectors that might have a role to play, and start the discussion around the development of one model. I really do believe that your ministry has to take a lead and that if you don't do that, this will have been kind of a lost debate.

The Chair: Are you making an amendment to the motion?

Mr Marchese: It's a friendly amendment, I'm assuming.

The Chair: Do you accept that it's a friendly amendment?

Mr Marchese: That the ministry take a leadership role in coordinating the three groups that are here—OPA, PRO and ORFA—and any other sector that the ministry believes it is important to have at that table, and begin the discussions immediately.

The Chair: So you accept that as a friendly amendment?

Mrs Van Bommel: A friendly amendment.

The Chair: Any further discussion?

Mr McNeely: Just a comment, Chair. It's nice to be able to pick out certain areas and progress with them. The items being addressed by this association were very neat and very specific to facilities. I just hope we don't get bogged down because of not being able to bring the three organizations together, because there is a great need in the smaller communities for this to proceed, and in the larger communities as well, probably. We've done it in many areas. I think it should be done with facilities. It'll come back and it'll save the taxpayers money. I just want that comment, that it's very important that we don't get this bogged down because we can't get overall agreement. The big cities are fine. They have the organizations to do the training. This is very much required, and it's required to take it forward, so I hope we have that support.

The Chair: Thank you. Are members ready to vote on Mrs Van Bommel's motion, as amended? All in favour? That's carried.

Thank you very much. The meeting is now adjourned.

The committee adjourned at 1158.

CONTENTS

Wednesday 12 May 2004

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Chair / Président
Mr Tony C. Wong (Markham L)

Vice-Chair / Vice-Président
Mr Khalil Ramal (London-Fanshawe L)

Mr Bob Delaney (Mississauga West / Mississauga-Ouest L)
Mr Kevin Daniel Flynn (Oakville L)
Mr Rosario Marchese (Trinity-Spadina ND)
Mr Gerry Martiniuk (Cambridge PC)
Mr Phil McNeely (Ottawa-Orléans L)
Mr Bill Murdoch (Bruce-Grey-Owen Sound PC)
Mr Khalil Ramal (London-Fanshawe L)
Mr Tony Ruprecht (Davenport L)
Mrs Maria Van Bommel (Lambton-Kent-Middlesex L)
Mr Tony C. Wong (Markham L)

Also taking part / Autres participants et participantes
Mr Dave Levac (Brant L)
Mr Lou DiPalma, manager, recreation unit, Ministry of Tourism and Recreation

Clerk / Greffier
Mr Trevor Day

Staff / Personnel
Ms Laura Hopkins, legislative counsel

T-4

ISSN 1180-4319

Legislative Assembly of Ontario

First Session, 38th Parliament

Official Report of Debates (Hansard)

Wednesday 19 May 2004

Standing committee on regulations and private bills

Sandy's Law (Liquor Licence Amendment), 2004

Chair: Tony C. Wong
Clerk: Trevor Day

Assemblée législative de l'Ontario

Première session, 38e législature

Journal des débats (Hansard)

Mercredi 19 mai 2004

Comité permanent des règlements et des projets de loi d'intérêt privé

Loi Sandy de 2004 (modification de la loi sur les permis d'alcool)

Président : Tony C. Wong
Greffier : Trevor Day

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Copies of Hansard

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

Exemplaires du Journal

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.

Hansard Reporting and Interpretation Services
3330 Whitney Block, 99 Wellesley St W
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
3330 Édifice Whitney ; 99, rue Wellesley ouest
Toronto ON M7A 1A2
Téléphone, 416-325-7400 ; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 19 May 2004

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 19 mai 2004

The committee met at 1002 in committee room 1.

SANDY'S LAW (LIQUOR LICENCE AMENDMENT), 2004

LOI SANDY DE 2004 (MODIFICATION DE LA LOI SUR LES PERMIS D'ALCOOL)

Consideration of Bill 43, An Act to amend the Liquor Licence Act by requiring signage cautioning pregnant women that the consumption of alcohol while pregnant is the cause of Fetal Alcohol Syndrome / Projet de loi 43, Loi modifiant la Loi sur les permis d'alcool en exigeant que soient placées des affiches avertissant les femmes enceintes que la consommation d'alcool pendant la grossesse cause le syndrome d'alcoolisme fœtal.

The Chair (Mr Tony C. Wong): Good morning, ladies and gentlemen. This is the standing committee on regulations and private bills. I want to welcome members of the public to this meeting. We are dealing with Bill 43, An Act to amend the Liquor License Act by requiring signage cautioning pregnant women that the consumption of alcohol while pregnant is the cause of Fetal Alcohol Syndrome.

We have a number of groups who have requested to speak to us. I just want to impress upon you that we are operating on a very tight time schedule, so each group has been given eight minutes. If there are questions from members of the committee, those would have to be dealt with within the eight minutes. So we'll appreciate it if you can limit your comments to maybe six or seven minutes.

FETAL ALCOHOL SYNDROME TREATMENT AND EDUCATION CENTRE

The Chair: I'd like to invite the first group, the Fetal Alcohol Syndrome Treatment and Education Centre, Jill Dockrill and Janice Alexander, to come forward, please. We already have your package. Welcome. You can start now.

Ms Jill Dockrill: Good morning. My name is Jill Dockrill and I am the director of the Fetal Alcohol Syndrome Treatment and Education Centre in Belleville. Beside me is Janice Alexander, our program developer. We are the only non-profit organization between Ottawa and the Durham region devoted solely to FASD issues. I appreciate the opportunity to speak to you today in support of Sandy's Law and I commend our local MPP, Ernie Parsons, for the strength, courage and vision that has allowed him to bring forward this bill.

Raising awareness about the dangers of alcohol during pregnancy is vital. Sandy's Law is an important step toward the day when no more babies are born with fetal alcohol spectrum disorder. With signs that are large enough, clear enough and specific enough, Sandy's Law can help correct some of the many misconceptions about alcohol and pregnancy. It will help spread the word that when a woman is pregnant, there is no safe time, no safe amount and no safe kind of alcohol. FASTEC believes Sandy's Law is a great first step for Ontario. Unfortunately, no matter how effective these new signs are, more babies will be born, today and tomorrow, damaged by alcohol. New signs will not change the lives of those now living with FASD.

Children born in Ontario with FASD often face a grim future. Pre-natal alcohol use can cause irreversible brain damage. Bones, limbs and fingers may form improperly. Alcohol causes vision and hearing difficulties and can damage the heart, kidney and other vital organs. Many of these children will require lifelong assistance with daily living. They exhibit memory and attention deficits and hyperactivity. They can display immature behaviour, have poor judgement and impulse control, and problem-solving skills are limited. Often these children end up in foster care and group homes. Branded as troublemakers at school and without effective support structures, they begin a journey of conflict, suspensions and frustrations that too often result in contact with the law. As adults, they are at high risk for drug abuse, alcoholism and an early death. They swell the ranks of our homeless, unemployed and prison populations.

At FASTEC, we know that with early diagnosis, along with supports and services designed specifically for FASD, those affected can reach their potential. Our goal is to open a six-bed, specialized, supportive home for those with FASD. One bed would be held for respite. We currently have a waiting list of four people.

Sadly, in Ontario today much of the supportive housing we provide for the adult FASD population is a prison cell. This is a very expensive choice. Corrections Canada estimates that 42% of inmates in our prison

system have some form of FASD. Research also indicates a disproportionate number of alcohol-affected young people in the youth justice system.

It is important to understand that because of brain damage, people with FASD do not learn from the consequences of their actions. They may be unresponsive to traditional interventions. This disability is a shared responsibility of human service agencies. It takes a community working together to foster improved outcomes for children and adults with FASD.

In the handouts you have received today, I have included A Child's Plea, A Mother's Story, which tells of the life of my adopted son, Tom, who has fetal alcohol effects. I hope you will take the time to read it. This story typifies what families in Ontario go through to get help. In 2001, my son, Tom, and his dog, Shadow, walked across Ontario to raise money for FASD. This was the beginning of FASTEC.

FASTEC has now been operating on a shoestring budget for three years. Every penny we have comes from donations. With our hard-earned funds we run a support group for FASD individuals and their families. We raise awareness about the dangers of prenatal alcohol consumption, and this year we are finally able to open an FASD resource centre.

1010

We are now starting the next phase of our work by developing formal training programs for health care professionals, service providers, teachers, law enforcement and justice agencies, but we cannot do this alone. We need your help.

This government cannot afford to start from square one to bridge the gaps that exist in services. We have too much work to do. We must build on what has already been accomplished elsewhere. A good example of where to look is as close as Canada's three western provinces. I recently completed a comprehensive training program in British Columbia, where I learned of routine early diagnosis, specialized supports and services, and alternative sentencing programs that we have only dreamed of.

Ontario has the capacity, talents and resources to become a world leader, setting new standards for how society treats those harmed by prenatal alcohol consumption. What we need from our government is the determination, the investment and the leadership. I know you will not let us down.

The Chair: Thank you very much. You were almost perfect in your timing. You have spent seven and a half minutes. Questions from members of committee? If not, thank you for making the interpretation for us.

CENTRE FOR ADDICTION AND MENTAL HEALTH

The Chair: I call on the second group, the Centre for Addiction and Mental Health, to come forward: Dr Peter Selby. Welcome, Dr Selby. Just to remind you again, eight minutes, please.

Dr Peter Selby: Sure. I want to thank everybody for giving us this opportunity. I represent the Centre for Addiction and Mental Health in Toronto. For those of you who don't know, we're the largest mental health and addiction facility in Canada. Our mandate is as a hospital locally but also provincially, and we have some work that we do internationally and nationally as well.

We support any effort to make sure the public has the information to make informed choices about the use of alcohol. We certainly support this legislation, as signage will provide another avenue to get the public the information needed to make an informed choice about the use of alcohol.

I'm not going to go over the whole issue of FAS, because I think the other groups have done that for you, but I'd like to speak much more to how this act can fit into a larger, more comprehensive plan that is necessary if we are truly committed to reducing the exposure of neonates or fetuses to alcohol. This is just one part of a comprehensive strategy. This legislation should be accompanied by a continued commitment to healthy public policy, ongoing public education, and an effective and available treatment system.

One of the biggest tenets in medicine is that you don't go looking for conditions for which you don't have treatments, because that's ethically unfair. So if we are going to be raising awareness or we are going to tell women about their drinking and there aren't venues for them to go get the treatment and the help that they need across the breadth and expanse of this province, we've really got to ask ourselves what we're doing to people. So clearly this needs to be part of that larger, comprehensive policy.

We also know that knowledge rarely results in behavioural change; however, it's a very important first step to making movement in behaviour. So the signage should be enacted in order to reinforce, but not replace, other forms of education.

The greatest value in this approach is that exposure to alcohol and signage are linked. It is where alcohol is consumed that people will get to see this. We think that's a very important way of getting the message to the people who most need to get the message. Even if its overall effectiveness is very low, because it's relatively inexpensive and it will reach, relatively, a lot of people, it may have a huge impact.

Bill 43 deals exclusively with signage and cautioning pregnant women about the consumption of alcohol while pregnant. However, consideration should be given to expanding this because, as we know, about 50% of pregnancies are unplanned and many women don't know that they are pregnant. They may have already consumed alcohol in that critical first period, leading to a lot of effects of anxiety and fear. So to really be effective, attention should be paid to broadening this. Targeting this message and information to women of childbearing age and to the whole population needs to be given some consideration. We do know a woman's partner's drinking also directly affects her drinking. We need to think about

this. This is a good first step, but we need to think more broadly about this.

Again, as we know, alcohol-related birth defects are an important but small part of the harm that alcohol can cause to Canadians and Ontarians. We need to pay attention to the liver injuries and the other things that go on with alcohol consumption. General public education may also have a beneficial effect by reducing consumption overall.

Clearly, the industry that manufactures this has had a huge role to play in the reduction of drinking and driving, and certainly this is another area they could pay attention to.

The last major point that I would like to address to the committee is about the messaging and the implementation of signage requirements. It certainly requires an evaluation to see how effective it has been, what kind of impact it has had.

What we recommend is to take a look at evidence from the tobacco field where signage on cigarettes has had a huge impact in terms of the messages being noticed. There are some ongoing studies comparing signage in Canada versus the USA versus countries where there's no signage and what impact that has had on people in terms of the knowledge and awareness of the risks. Certainly something should be learned there.

Therefore, there should be regulations on the size, placement, font and colour combinations used to ensure that labels are seen and read. The language should be simple, clear and should not lead to easily labelling or stigmatizing people. Again, messages most likely to be recalled contain new information and should be convincing if they are personalized and relevant to the consumer. Therefore, if you can have some rotating messages that people have an option to use rather than a single message, that should certainly be considered. The messages should be properly tested before they're implemented. Evaluation should address the type and number of messages, specific wording—if the attribution to a health authority increases its credibility, then that should be considered as well—and the impact of the font, colour, placement and its use in English and French.

With respect to pregnancy, messages that are more specific, more positive and less well-known should be considered, such as, "Reducing alcohol use early in pregnancy greatly increases the chance of having a healthy baby"; "Women who drink during pregnancy should talk to their doctor"; "Drinking less alcohol during pregnancy is better, and none is best."

With that, I'd like to conclude my submission. Thank you very much for the time that you've given us.

The Chair: Thank you, Dr Selby. Any questions from the members of the committee.

Mr Ernie Parsons (Prince Edward-Hastings): Just very quickly, your comments about the sign are very well taken. There will be an amendment that will move it from the bill to regulations in the belief that there may be different size and colour signs appropriate for different settings and a concern that a sign can get stale after a number of years, and regulations would provide the opportunity to change that, in consultation with other groups. Excellent suggestion.

Dr Selby: Thank you very much.

Mr Rosario Marchese (Trinity-Spadina): I wanted to thank you for your presentation and thank the previous group as well. I did have some comments or questions for them, but I'm sorry I didn't ask them.

The previous group and yourselves have talked about the idea of signage being a good first step. It's really hard to disagree with any of that, and the best thing is how to make it more effective, which is what you're all suggesting. The point they made is you need support services, alternative sentencing programs, which I think is critical, and early diagnosis. You talked about effective, available treatment.

In your view, do we have, at the moment, effective, available treatment? If not, what are we lacking, and what is your suggestion for the government, in particular and in general to all politicians, in terms of what we need?

Dr Selby: I want to talk about there being two people who maybe need treatment here. One is the pregnant woman who is consuming alcohol during pregnancy. You can look at the one who is uninformed but happens to have consumed alcohol, doesn't have a problem with alcohol per se, and because of a mistaken belief system continues to drink during pregnancy; not necessarily heavily, but continues to drink. That's by far the more common population, which is very amenable to public education. They are very amenable to things like taxation, messaging etc. So they don't necessarily need intensive treatment.

1020

The small group who do need to have treatment are the heavy drinkers who are addicted to alcohol. The treatment systems are getting there, but they're not there yet. We don't have very many women-specific treatment programs. Especially, there isn't coordination across the system in the province. Yes, we may have resources in Toronto, but I'm thinking of other areas, like Dryden or other places, that are remote. What kind of capacity do we have to help those communities deal with it?

There are two aspects of treatment. One is the pregnant woman, which is what I'm focusing on. Then the other one is a child who has been affected by FAS right from getting an early diagnosis. Most physicians are not very well—first, they don't know how to screen for alcohol in pregnancy; second, when a child is affected they are unable to recognize a child who's affected. So we don't have that capacity in sort of an international standing, given the kind of brainpower we have in Ontario, to actually respond to that.

Clearly policies that help for that capacity to develop are much needed to help these kinds of things to be effective.

I hope that answers the question.

Mr Marchese: Within the limited time we've got, yes.

The Chair: Thank you, Dr Selby.

FASWORLD CANADA

The Chair: I'd like to call on the third group, FASworld Canada, to come forward: Bonnie Buxton and Colette Philcox. Welcome. We have a copy of your submission.

Ms Bonnie Buxton: I'd really like to thank all of you for allowing me to speak about a preventable health disorder that is costing this province many billions of dollars annually.

Our family is extremely grateful to Ernie Parsons for proposing Sandy's Law. Like the other presenters, I believe it to be an important first step in preventing the brain damage that currently affects about one in 100 citizens of this province—over 100,000 people, most of them undiagnosed.

I'm also grateful to my daughter, Colette Philcox, for coming with me today. Unlike the beloved Sandy, she has a normal IQ. However, she too has struggled with the effects of prenatal alcohol damage.

When Colette was 17 years old, sliding on to the street, addicted to crack, I saw an item on CBC-TV and instantly recognized what our family had been dealing with for many years: neurological damage caused by prenatal alcohol.

We now know that her birth mother binge-drank through all three of her pregnancies and was most likely affected by prenatal alcohol herself.

I've documented our family's difficult journey in my recent book, Damaged Angels. I will be submitting one copy, along with copies of a newspaper article in the Vancouver Sun. The book took three years to research and write, and I interviewed parents, professionals and survivors all over the world. Some of them are in this room and will be presenting as well today.

As a result of my national and international research and advocacy, I'm making three requests. One, rather than referring specifically to fetal alcohol syndrome in the legislation, please use the more recent umbrella term "fetal alcohol spectrum disorder," FASD, which encompasses all fetal alcohol disorders, including FAS.

In brief, the term fetal alcohol syndrome now generally refers to individuals with full-blown FAS. These make up about 20% of the people with FASD. They generally have small size, small head circumference—many other physical characteristics—and fairly low IQs. But about 80% of individuals with FASD appear to be normal, but their learning and behaviour problems are invisible. Colette has been diagnosed with alcohol-related neurodevelopmental disorder, ARND, which was formally known as fetal alcohol effects, FAE.

Individuals with ARND generally have normal intelligence, but their learning problems usually include things like poor memory, difficulty in predicting consequences or learning from experience, poor judgment or lack of impulse control, and many quickly become addicted to alcohol and drugs. These people at the high end of the fetal alcohol spectrum, people like Colette, are at even more risk than individuals with full FAS, as they are rarely diagnosed. The majority will drop out of school, will encounter trouble with the law and have great difficulty obtaining regular employment. By 21, many have brought two or more damaged babies into the world.

My second request would be similar to that of Dr Selby. I ask that the wording on the posters not be spelled out in the legislation but that it be flexible. There could be several messages developed in concert with people like the chief medical officer in consultation with various groups around the province. My research indicates that that kind of freshness and variety could give much more impact to the message, as it now does on the cigarette package warnings.

Finally, like everyone else here, I urge that the warning posters become this government's first step in fighting this terrible disorder which is costing Ontario taxpayers billions of dollars annually for social services, special education, mental health and addiction problems and criminal justice.

I estimate that, at 24, Colette's problems have so far cost the taxpayers more than $1 million. These costs include foster care through CAS for the first three and a half years of her life—this would include the cost to the foster family and also the cost of administering foster care programs; psycho-educational testing at school and special education from fourth grade on; a residential treatment farm for so-called emotionally disturbed adolescents for two years; and a brush with the law at age 14, requiring legal aid and many hours in court.

She finally completed her high school diploma last year at age 23, for which we were very grateful and proud, through an excellent special education program offered by the Toronto District School Board.

She has had treatment for many health problems caused by prenatal alcohol exposure, such as frequent earaches, requiring surgery as a young child, dental problems, a heart murmur, and the back pain of scoliosis.

She currently lives on Ontario disability support, but could possibly work full-time—she's really gifted with animals—if she could find an employer who understands her disabilities. I estimate that the costs of administering ODSP, plus income support, drug and dental benefits probably are close to $25,000 per year.

Colette has two young children, aged 3 and 4 and a half. She was committed to not drinking in pregnancy—unusual in women with FASD—but the children have required subsidized day care since infancy, costing the taxpayers more than $20,000 per year. So between the ODSP and the daycare, that's $45,000 per year for this little family. Fortunately, she has taken steps to prevent further pregnancies, and this is also very unusual for a young woman with FASD. Many will have four and five children before they're 25 years old.

The good news is that when diagnosed early and given adequate support, individuals with FASD can break the expensive and tragic cycle of alcoholism, poverty and abandonment. However, breaking the cycle requires a whole new way of thinking on the part of government. All of us presenting today would be pleased to work with

you in developing policy changes that can save money while tackling this terrible disorder. I'm giving Colette the last word.

Ms Colette Philcox: Please pass Sandy's Law.

The Chair: Thank you, Bonnie and Colette. Questions?

Mr Marchese: Just a quick one: Part of the problem that we have in Ontario with people generally attacking welfare recipients and ODSP recipients is that young people tend to look healthy.

Ms Buxton: That's right.

1030

Mr Marchese: You look at them physically and you say, "They're bums. They just don't want to work."

Ms Buxton: But you don't recognize that they've got disabilities inside.

Mr Marchese: Quite right. This is why sometimes I get very upset at certain politicians for the attacks they make and how they feed that anger against people who actually need help. How do we deal with that problem?

Ms Buxton: I think we somehow have to get the message that there are a lot of people out there with invisible disabilities. We see this in the media almost every day, where people have committed horrendous crimes, and then we look at them and we see that they are part of a dysfunctional family. They are foster children who grew up inside the foster care system. The Alberta statistics indicate that probably as many as 50% of foster children are actually struggling with FASD and 70% of those who become crown wards and available for adoption have FASD.

It's a message that we've been working very hard to get out. These people are as disabled as if they had feet and legs that did not work. It's been very hard to watch our daughter struggle as hard as she has, because she works very hard and yet she needs employers who really understand her. You can see she's bright and she's wonderful, and we love her to bits. She deserves better than she's had. I think every single parent who's here today feels that way about their children. We all just love them, and the supports have not been there for us as parents.

Ms Philcox: I hate to say that the government, the school system and the doctors have really let this disability down. Try and make a change, please.

Mr Marchese: Do we have time?

The Chair: A very short one.

Mr Marchese: How do you think the school system failed these types of individuals?

Ms Philcox: For me personally, I was told I was lazy, stupid, incompetent, that I could do better, when I was working my fullest. Being treated like I was an inch instead of who I am. Doctors basically saying, "Oh, you know, all these problems are just normal problems. They're not part of fetal alcohol."

Mr Marchese: Because the doctors couldn't identify the problem.

Ms Philcox: They didn't know anything about it. There's more research that has come out, but my family doctor knew nothing about it at all.

Ms Buxton: We spent seven years going through a trail of psychiatrists, psychologists and social workers, which I write about in my book. Only later did we encounter hundreds, maybe thousands, of other families across the country who were going through the same stuff.

Ms Philcox: The same story.

Ms Buxton: Even nationally and internationally. It's a huge, invisible issue and we are so pleased that the Ontario government is finally taking an interest in this, thanks to Ernie.

Mr Marchese: As a first step.

Ms Buxton: Yes, absolutely.

The Chair: Thank you both. Colette, on behalf of the committee, I want to commend you for your persistence and willpower to struggle on. Of course, you are fortunate to have Bonnie step forward and assist you.

Ms Philcox: Thank you very much.

FASWORLD HAMILTON

The Chair: I want to call on the next group, FASworld Hamilton, May Stanley and John Stanley. Welcome both and, yes, we have your submission.

Ms May Stanley: Good morning, Mr Chairman and committee members. My name is May Stanley. I'm from Oakville. I'm proud to be accompanied here today by my son, John. We both thank you for this opportunity to express our support for Bill 43, Sandy's Law.

Fetal alcohol syndrome disorder is permanent brain damage. If this law is passed, you as a government will be in good company. This quote is from Aristotle: "Foolish, drunken or hare-brained women most often bring forth children like unto themselves." and from the Bible, Judges, chapter 13, verse 7: "Behold, thou shalt conceive, and bear a son; and now, drink no wine nor strong drink."

I wish it wasn't necessary for this course of action today to have to be taken at all, but unfortunately it's desperately needed. Fetal alcohol syndrome disorder is the most commonly known cause of mental retardation and is a major health problem. It's important to remember that as the mother consumes alcohol and her blood alcohol rises, the alcohol is freely crossing the placenta and the fetus is being exposed to the same blood alcohol levels—quite a horrifying thought when one considers the size of an adult and the size of the fetus from conception to a full-term delivery, unless they abort or are born prematurely, which is common. The effect of the alcohol on the fetus depends on when and how much alcohol is taken during the pregnancy. The brain is continuing to develop right through the pregnancy, so therefore brain damage is inevitable.

This brain damage, I repeat, is the leading cause of mental retardation. But most individuals with FASD have normal intelligence; they just don't have the ability to use the intelligence they have.

John, whom we adopted at the age of nine days, has only recently been diagnosed at St Michael's Hospital

FASD assessment centre. His life has been chaotic, by any standards,not of his own choosing. The fact that he is here today is not a tribute to the school system. Educational specialists are not trained to recognize the symptoms, and when FASD is diagnosed, there are no special education facilities that can adapt to the special needs of the FASD student. They struggle and stumble, with their self-esteem being battered at every turn.

Professional counsellors, doctors and psychiatrists are woefully inadequate in making the diagnosis, and without a diagnosis the children suffer greatly in the education system without the supports in place that are necessary for them to achieve their potential. The school years will typically be miserable, and during this time the dropout statistics are high. These children often drift into homelessness, prostitution, drug and alcohol problems, and trouble with the law.

As members of the government, you will be horrified at the statistics quoted. During their lifetime, the individuals alive today with FASD will cost the taxpayer about $600 billion. I believe that figure has probably increased since those figures were quoted in a report from FASworld that I read recently.

In a fact sheet, Current Perspectives, which I quote in the paper, it states that it is estimated that each individual with FASD costs the taxpayer $2 million in his or her lifetime for health problems, special ed, psychotherapy, counselling, welfare, crime and the criminal justice system.

Many can't live independently, and most families can't afford financially to support them. Many have their babies removed from them because they are not able to support them financially or emotionally. There are lots of grandparents who are raising their grandchildren. Relationships are often difficult for them to maintain, so there is separation and divorce and further failure for the FASD person. Employment becomes impossible because of the many stresses in the work environment, which they simply can't handle.

There are times, I know, when most adoptive parents, as much as they love their FASD child, as I do, as Bonnie does, as we all do, feel that they've been taken advantage of by society. Having taken on the huge responsibility of raising an FASD child, we find society offers no help and shows no interest in helping families such as ourselves. The passing of Sandy's Law would be an indication that there are some people out there who care.

Bill 43 is a very small start to solving a very big problem, but it is possible to completely eradicate this devastating problem. It's so simple. We don't know how to prevent cancer or diabetes, but we do know how to prevent fetal alcohol syndrome disorder. Let's make a start, please.

Mr John Stanley: Good morning. My name is John Stanley. I have alcohol-related neurological disorders. It's caused by my birth mother drinking while she was pregnant.

Over the past 27 years, my life has been so far from normal that every day is a challenge for me. In school, I have had many problems: learning disabilities, making friends, paying attention in class, remembering. I hated going to school each day. All my life I have had problems sleeping. Day and night are reversed for me, meaning that I am often exhausted and irritable because I try to sleep when the rest of the world does.

Changes and surprises are very stressful for me. I tend to become angry when stressed. Depression is a major problem for me. There have been times when I have felt suicidal. Because of this, I am unable to keep a job, and therefore I am currently receiving Ontario disability. This depresses me, that I have to be financed by the government for the rest of my life.

I am on medication to help with my mood and stress and will always need to be on medication.

The bottom line is that anything to help prevent all of this is a good thing.

I would like you to understand that as a result of my mother drinking alcohol while pregnant, I have permanent brain damage, which cannot be treated. It can be helped by the environment and attitude of people around me. Medications can help somewhat with the handling of stress and anxious feelings, but it is permanent brain damage.

Nobody should have to go through what I do, but I suppose I could say I'm one of the lucky ones. Some people with fetal alcohol spectrum disorder are mentally disabled and not able to function in society at all. I have the support of my wife and family, which has made a big difference in my life. But when this sign is designed, please make sure that it's big enough and colourful enough, without too much writing on it, so that it will attract attention. Thank you.

1040

The Chair: Thank you both. Questions?

Mr Marchese: I've got two quick questions. How many people in Ontario do we estimate have the problem of fetal alcohol syndrome?

Ms Buxton: Some 100,000. It's about one in 100.

Mr Marchese: In Ontario, not Canada?

Ms Buxton: In Ontario.

Mr Marchese: The other question I had, and you both could answer it, but maybe for John: Without being critical in what I'm about to say, the government has introduced an idea saying, "We're going to hold students until age 18 by law," as opposed to 16. For someone with fetal alcohol syndrome, unless it's diagnosed—you keep students until age 18 on the basis that somehow we might be able to help them. If we don't diagnose the problem and we hold students for two more years—

Mr Stanley: It's going to make it worse.

Mr Marchese: It's going to make it worse, right?

Mr Stanley: It was very hard for me to go through school. I went to school for 13 years. It felt like I went for 30, because every day teachers would harass me. They'd tell me that I'm stupid, that I don't belong there, there's something wrong with me. In high school I tried to commit suicide because a teacher did that to me. The teacher said, "You know, you're 20 years old. You

should be out of here by now." I couldn't take it any more.

Mr Marchese: I understand. Thank you.

The Chair: Thank you. Any more questions? If not, then, John, I also want to commend you for your determination to overcome all these challenges, and I thank May in helping you along the way.

FETAL ALCOHOL SPECTRUM DISORDER GROUP OF OTTAWA

The Chair: I'd like to call on the next group, FASD Group of Ottawa, Elspeth Ross. Welcome.

Ms Elspeth Ross: Thank you. My name is Elspeth Ross. I'm speaking to you today as an educator, as a parent, and also probably as a spouse who lives with FASD 24 hours of every day. My husband thinks that he's also affected, although this is denied in his family. I have been working locally in Ottawa with a support group in our children's hospital for the past five years. I work provincially and nationally. I've been involved in a fetal alcohol outreach project and in a best practices effort.

I wish to commend you for Bill 43. It's an important initiative. It's a very good thing that MPP Ernie Parsons has brought this forward despite tragedy and that you have passed it through second reading, but I would like to make some important points here about this.

Warning signs are only part of a primary prevention effort. Signs are important as part of this, but, like tobacco, everything works together. They're geared to the population at large. We need warning signs, labels on liquor bottles, limiting of availability, price increases, posters, pamphlets, education in schools, physician instruction. All of this works together.

There's some best practice evidence to support the warning signs and posters as a means of increasing awareness, but one of the limiting factors is that people simply do not see the message enough. A national study in the US of those exposed to alcohol-in-pregnancy messages found a positive relationship with the number of exposures to multiple message sources, which actually did reduce the drinking level. We haven't seen these warning signs around Ontario very much. Those of us who work very, very hard in the prevention effort do so without funding. The messages would definitely help us in our efforts. Last week in Ottawa we had a mocktail competition, with pregnant women as judges and five bars competing. But we feel that we're very much alone. We feel that we could work much more effectively with multiple messages.

We're pleased and proud that Best Start in Ontario—have you seen these around? They're supposed to be on the buses; they're supposed to be around. Some of you are looking puzzled. I have the pamphlets here.

We're pleased and very proud that Best Start in Ontario has very good resources starting this month of May, but we feel strongly that establishments that sell and serve alcoholic beverages should have a responsibility to tell people also at the point of sale, at the point of service.

In passing this law to get the signs, Ontario will join other jurisdictions. Have you seen the signs in the city of Toronto? I've seen them in women's washrooms. The message: "Warning. Drinking beer, wine or spirits during pregnancy can harm your baby." It may be only in the women's washrooms, but the city of Toronto is one place. I've given you the municipal bylaw in your package. The town of Wawa, municipalities in BC, 21 states in the US, cities in the US and countries like Brazil, Columbia, Ecuador, South Korea, Mexico and Zimbabwe have these signs. You will join these other jurisdictions around the world.

I have two points here that I think are very important about wording. The bill at the moment says, "fetal alcohol syndrome." This is the old term and it does not apply to my family. It has been superseded. It requires the small stature, the facial features, the mental challenges. My boys, my family, most of them—fetal alcohol syndrome is the tip of the iceberg. It's fetal alcohol effects: ARND, alcohol-related neurological disorder. That's the term for the other ones. It's a spectrum. That's why we use the new term "fetal alcohol spectrum disorder." It's an invisible disability.

Our sons are fetal alcohol affected. They're not small. They don't have the face. They're of average intelligence. They graduated from high school—in the old days, they were able to do that—and the older one from a community college in aboriginal studies. They're both working. The older one has a learning disability. His wife is his external brain. She helps him with the things he can't do. Our younger son found a job through an Ontario disability support program, assisted employment. He's keeping his job with difficulty. He has problems with learning, remembering, thinking things through, acting impulsively, staying out of jail, getting along with others, math and money.

The wording in the bill "developmentally handicapped" and "a reduced lifespan" does not apply to my family. You have the power to change that. We don't like the term "handicapped." But phrases like "birth defects" and "brain damage" cover everything.

We should not just be cautioning pregnant women. Women of childbearing age should be cautioned and their drinking partners. We need to caution the men they drink with.

My last point is very important. The wording of the sign, as you have it now, engraved in legislation, please take it out of there and put it in your regulations, as you were saying, so that it can be altered. As it is now, it's too long, it's repetitive, it's complicated and it's misleading. I'm sorry to say that rather bluntly. It's not good wording, because what we should have is something tested. Best Start has had focus groups, and the wording has been tested by these people. What I would suggest to you is simply the wording that's used in this material: "Drinking alcohol during pregnancy can cause permanent birth defects and brain damage to your baby." Let's start

out with that wording and get a committee from the FAS community with Best Start to provide input into the wording.

I would also suggest that you look at the size of words. In the bill now, it talks about the size of the sign, but you could have words this big in a sign. I think you need to specify the size of the letters, as Arizona did in their sign. Also, where is the sign going to be? It could be put down the back hall in the establishment. You might want to think about that. It should be at the point of sale.

My recommendations are about making changes to the bill: "fetal alcohol spectrum disorder" instead of "syndrome," and change the wording, please, to be more effective for all of us. You have the power to change the words.

You have the power to pass the bill. We need treatment, we need diagnosis, we need treatment for pregnant women, we need support, we need funding, we need lots of things. But a short, simple message that's widely seen would really help us.

1050

The Chair: Thank you, Elspeth. Mr Marchese has a question for you.

Interjection.

Mr Marchese: That's what reminded me of the question I'm about to ask. I'm assuming that Mr Parsons is dealing with some of the points you made and some of the changes. That's good, so we don't have to deal with that.

What I'm reminded about is how little we know about so many problems. My father died of Alzheimer's disease and, before that, I paid no attention to the problem whatsoever. It seems that we only pay attention when we're affected by something.

Ms Ross: That's right.

Mr Marchese: So unless we seriously deal with this problem in the way that many of you have suggested, we're going to continue suffering from this. If indeed it's 100,000 people, if that's a good best estimate, this is serious in terms of the effects it has on us all. So we have to do a better job, it seems, based on what you're saying.

Ms Ross: We have to do a better job with multiple messaging. In the case of tobacco, in the case of heart disease, we are doing that. We're having an impact. We have to start doing this now.

Mr Marchese: And I agree with your wording. It carries an image much more easily than something that is a little more abstract and complicated to understand.

Mr Mario Sergio (York West): Could we have copies of those?

Ms Ross: They're all here. The copies are here. Please take them.

We have to normalize what it is to have fetal alcohol. It's all around. It's in my family. It's in previous generations. It's probably in some of your families. But we have to normalize it. But our concern is that this problem is not going away. It's not somebody else's problem. It's not an aboriginal problem. It's all around the world. The highest rate is in South Africa, where people were paid in wine. It's everywhere, and it's getting worse, because women are binge drinking more and more. The publicity is incredible, with low-carb and all this stuff now in terms of media messages about how it's cool to drink. We are really concerned that the messages are not getting out to young women of child-bearing age. Please do something about the wording. You're the power with the wording.

The Chair: Thank you, Elspeth. You've given us good input.

FASWORLD TORONTO

The Chair: The next group is FASworld Toronto, Mary Cunningham. Welcome, Mary.

Ms Mary Cunningham: Good morning. My name is Mary Cunningham and I'm the president of FASworld Toronto. I strongly support Bill 43, and I commend Mr Parsons for bringing it forth at this difficult time. This is the first positive public step for FASD prevention that's happened in Ontario.

I'm here to suggest some other low-cost, ready-to-implement strategies to follow this bill to help eliminate FASD. Also, my own story will illustrate why the term FASD, not FAS, is critical.

In June 2003 I retired from 30 years of secondary school teaching. I was a teacher, a department head, an ed consultant. I got the curriculum rolling, I co-authored a textbook, and had executive roles on two of the Ontario family studies organizations.

I'm really pleased with my career except for one thing, and that's basically why I'm here today. My two roles, as FASworld president and the co-founder of OCMPE, which is the Ontario Coalition for Mandatory Parenting Education, happened for a reason. They happened when my family life and my professional life collided. They collided very shortly after the publishing of this article by Bonnie Buxton, which details Colette's story. It was in Reader's Digest of March 2000. I read this one Friday night, and so did my husband, who's also a teacher. We knew, just like a lightning bolt had struck us, what was wrong with our second child. She joined our family as a young baby, at the age of three months.

We knew something was terribly wrong. She'd dropped out of grade 10 by this point. Educationally, she had achieved almost nothing and created enormous problems for the administrators and teachers in two high schools. She does not acknowledge or discuss her almost certain FASD, but we recognized the usual signs: serious school truancy, resulting in indefinite suspensions; shoplifting; assaults; police and court involvement; depression; refusal to work; wild partying; and drug and alcohol abuse. Think of anything you would not want your teenage daughter to do—I mean, anything.

She was miserably unhappy, and so were we. I think we both went to work for a rest in those days. In elementary school, they assured us she was fine. We're both teachers; we knew something was wrong. We knew something was wrong with her educational success, be-

cause she just wasn't getting it. So we had her privately tested and she had profound learning disabilities, despite the fact that the school didn't realize it.

The wheels that squeaked in elementary school absolutely fell off in high school, and that is when the dramatic behaviour changes really started. Our child was every parent's and every teacher's nightmare. It was so bad that at age 17 we had to ask her to leave our house. We couldn't cope with it any longer. We did support her as external brains and with massive amounts of money, but seven years later she's had a variety of unusual occupations, five abusive domestic relationships, at least four of which were with another person we have identified as probably having FASD—it is really common—a court case and a peace bond, a baby and an enormous amount of help from us.

She has a baby, as I said. Our gorgeous baby grandson was born in a clean pregnancy. As far as we know, he's going to be fine. We've gotten rid of all the abusive boyfriends, at least for now, but we're holding our breath. Research shows that her outlook is grim. We know we're on a roller coaster. The chances that she will ever be completely independent with a job, with a T4—this is our great ambition—are slim. She is costing you a fortune, and she's costing me a fortune because I'm a taxpayer too. Wonder where your deficit is coming from? Look here.

As FASworld president and a teacher, I now recognize that the story I've just told you is absolutely classic, textbook, undiagnosed FASD. All the physical signs of FASD, such as heart defects, scoliosis, dental and inner-ear abnormalities, that would show clearly in a FASD individual are not obvious. People do not understand that she has permanent brain damage that will make her behaviour totally unacceptable from time to time. Instead, she will be arrested, strip-searched and humiliated. This has already happened.

When I understood FASD, I then understood my only real regret from teaching, and that's one of the main reasons I'm here today. I knew why I had failed to reach or teach dozens and dozens of students during my career. These are the students who score very poorly on the grades 3, 6, and 9 standardized tests. They fail the grade 10 literacy repeatedly—it doesn't matter how many times they do it—and they categorically cannot do math—all three mandatory credits of it. On top of this, they cannot sit still and they tend to drive their teachers crazy with class-control problems. But think about it. These students are profoundly disabled. It's not that they won't behave; they can't. And this is absolutely crucial. You have to understand this—it's not that they won't; they can't.

In 1998, I didn't have any teaching strategies that worked, but fortunately western Canada is light-years ahead of us in the FASD department. Since retiring, I've made a study of what will work and can now teach teachers strategies that will probably work for their students with FASD. The bad news is that they are expensive and challenging. The good news is that students with FASD can learn and be successful—absolutely. As a teacher who knows the system, I will be presenting these strategies at four conferences in the next several months. As a family studies teacher, I immediately started to do a lot of FASD prevention education in my grades 11 and 12 parenting classes. I think several of my students then knew that being the way they were wasn't their fault. I could tell. We never talked about it, but you can tell. This was one lesson that was never, ever interrupted. They recognized themselves or others. They came up after class and talked to me.

I have continued these FASD education and parenting classes around the Toronto area and I know it works. After 30 years of teaching, I know when I score. I can teach other teachers how to do this. Other teachers in the family studies community are very prepared to do this. This is one lesson that sticks. I know that every time I do a parenting class, I prevent at least one FASD birth. That saves you and me about $2 million. This is pretty good pay for 75 minutes' work. We must make students understand that no alcohol is safe in pregnancy before they make alcohol a regular part of their lives. I am morally certain that if we can get this message out to all senior high school students before the legal drinking age—that is absolutely crucial—we can dramatically reduce FASD rates in Ontario and Canada. People who are legal drinkers do not absorb this message that no alcohol is the best way. They don't absorb it as easily. The grade 11 and 12s get it. They younger ones are not quite old enough to get it.

The only problem is that only 10% of students in Ontario take parenting right now. This is why it must move to the list of mandatory credits in Ontario. The family studies teachers of Ontario have been working on this for 14 years. We know it'll work. We know that a mandatory parenting credit in Ontario will help reduce a host of social problems, such as teen pregnancy, child abuse and neglect and domestic abuse, in addition to FASD. Sadly, most of those conditions are also connected to the high rates of FASD. We have worked since the early 1990s to make parenting mandatory. We have wide public support for OCMPE; we just can't get into the minister's office to explain it. I'm leaving our vision statement in your package handout. OCMPE will do more than prevent FASD, but this is the step that will work.

What I'm recommending is to make one senior parenting course mandatory for graduation in Ontario. Senior students are mature enough to get this message and pass it on; younger students aren't. The infrastructure to do this is ready to roll and family studies teachers are well organized to do this. You, the members of the Ontario Legislature, however, have to make the changes that will make this happen.

Secondly, infuse FASD prevention into salient parts of the existing K to 12 curriculum outside of parenting courses. Remember that this is only a Band-Aid and it will not do the whole job, because the students are too young to get the full message. Suggested hot points, in my opinion, are grades 6 to 8 pregnancy prevention efforts and the grade 9 mandatory physical and health

education course. Any other infusion of FASD information must not be superimposed on the current crowded curriculum just willy-nilly; it has to be respectful of the education expectations it uses.

1100

The Chair: Sorry for the interruption. You've exceeded your time limit, so please wrap up.

Ms Cunningham: OK. FASD information will also fit well into your Roots of Empathy and character-building programs. Help teachers find out about FASD and consider the students with FASD, please.

The Chair: Any questions for Mary?

Mr Marchese: There are many, but just one, because we're running out of time. You have a lot to say, but, as a teacher, you're familiar with the Safe Schools Act?

Ms Cunningham: Yes.

Mr Marchese: You probably also will admit or recognize that a lot of these students who have this syndrome would be affected by the Safe Schools Act.

Ms Cunningham: Absolutely. Our students, our individuals, are thrown out all the time.

Mr Marchese: New Democrats attacked the government when they introduced it and so did Liberals. I'm not quite sure we're pushing the minister enough to realize that this is a serious problem. Would you have a suggestion for Mr Parsons and the Liberal caucus in terms of what they should do with the Safe Schools Act as it relates to these students?

Ms Cunningham: Honestly, I like what I'm starting to hear now from the minister with respect to it.

Mr Marchese: So you like that?

Ms Cunningham: I like the fact that they're looking at it and they're starting to understand that students with disabilities are being thrown out in disproportionate numbers. I think we'll get there.

Mr Marchese: Oh, I'm glad you think he said that, because I haven't heard it, but that's good. We're working on that. Thank you.

The Chair: Thank you, Mary.

We have now finished with all the deputations and we're going to be proceeding with clause-by-clause consideration of Bill 43. Any comments, questions or amendments to any section of the bill and, if so, which section?

Mr Parsons: I would like to move that, notwithstanding the committee's order dated Wednesday, May 12, 2004, amendments be accepted through the course of clause-by-clause consideration of Bill 43.

The Chair: Discussion?

Mr Marchese: Just some general comments before we move into the amendments. I just wanted to thank all the deputants for coming. They made a lot of useful suggestions. Not to be critical of the Liberal government, but I think they have to remember that change won't happen by itself, Mr Parsons.

Mary, you can make statements of your own if you like. Nobody's preventing you from doing it.

We thank Mr Parsons for having introduced this bill, because it's important, but it leaves it open to address many other questions they have raised, which I'm sure Mr Parsons is very knowledgeable about. My point is that we need to press government. It doesn't matter who it is. It could be a Liberal government, a Conservative government or NDP, it doesn't matter. Changes only happen where there is pressure. That's all I wanted to say to you. You mustn't simply believe that this first step is a corollary of what will happen, because it won't unless all of you keep on reminding the government in particular and using the opposition parties to help with that cause.

The Chair: Mr Parsons has made a motion. Any debate on that motion? If not, are we ready to vote on that motion? All in favour? Opposed, if any? That is carried.

Mr Parsons: Before I move the amendments, I'd like to make a comment. This bill was conceived on a drive home from Florida alone. I put the legislation forward knowing that my belief that none of us is as smart as all of us would come true again. That's my sense with this.

To put it in perspective, when we had Sandy join our family, FASD simply wasn't known. We knew these were kids with behaviour problems, that kids got in trouble with the law, and if you loved them harder and if they worked harder in school—we didn't know what it was. We've made a lot of progress in the last 20 years but we haven't yet reached where I think we as a society are capable of reaching.

I'm going to move amendments that virtually amend every clause that is in it. I believed that was going to happen, because I wanted to hear—and I do appreciate this.

In addition to the groups that appeared today, I probably have received 600 or 700 e-mails and letters of support from the Ontario Hospital Association and virtually every health unit in municipalities. There's a real will to make it work. The comments made by every one of the presenters today are very legitimate.

The amendments are going to change a lot of what was in the bill to regulation. That will allow for changes. I'm not sure yet that we've captured the right wording for the sign. I'm not sure the wording that's right today will be the right wording five years from now So, if I could move a series of amendments, I think it will make the bill more flexible.

What is the right size and colour for the sign? That may be different for the type of restaurant or for the location. I want to provide the flexibility. Certainly there will be a minimum font size, but where a bright red sign may work in one restaurant, a bright blue or brown or whatever one might be better in another restaurant to make it stand out. I appreciate the advice given to me over the last few weeks.

I would like to move that subsection 30.1(1) of the Liquor Licence Act, as set out in section 1 of the bill, be struck out and the following substituted:

"Requirement to display sign

"30.1(1) No person shall sell or supply liquor or offer to sell or supply liquor from a prescribed premises unless:

"(a) the premises prominently displays a warning sign containing the prescribed information that cautions women who are pregnant that the consumption of alcohol during pregnancy is the cause of fetal alcohol syndrome;"

I don't know if I can amend an amendment, I would like to make fetal alcohol "syndrome" "spectrum disorder." If you would support what I've read rather than what's written, it will be "fetal alcohol spectrum disorder."

"(b) the sign is posted at the premises in accordance with the prescribed criteria; and

"(c) the sign satisfies any other criteria that are prescribed."

The Chair: Thank you, Mr Parsons. We will proceed section by section. Any debate on this amendment? All in favour? Opposed, if any? That is carried.

Mr Parsons: I'm looking for guidance from the Chair. Should we read and move section 1 of the bill or should I just do the amendments?

The Chair: Do the amendments first.

Mr Parsons: OK, thank you.

My second amendment is, I move that subsection 30.1(2) of the Liquor Licence Act, as set out in section 1 of the bill, be struck out and the following substituted:

"Language of sign

"(2) A sign under subsection (1) shall be in English and may be in any other language that is prescribed."

The Chair: Any debate on this amendment? If not, all in favour? Opposed, if any? That is carried.

Mr Parsons: The next amendment is, I move that section 30.1 of the Liquor Licence Act, as set out in section 1 of the bill, be amended by adding the following subsection:

"Regulations

"(2.1) The Lieutenant Governor in Council may make regulations,

"(a) prescribing premises and types of premises that are required to display a sign under subsection (1);

"(b) governing signs for the purpose of subsection (1);

"(c) prescribing languages, other than English, which may be used on a sign for the purposes of subsection (2) and specifying areas of the province where signs in a prescribed language may be displayed."

The Chair: Any debate on this one? If not, then all in favour? Opposed, if any? That is carried.

Mr Parsons: The final amendment is, I move that section 2 of the bill be struck out and the following substituted:

"Commencement

"2. This act comes into force on a day to be named by proclamation of the Lieutenant Governor."

The Chair: Any debate on this amendment? If not, then all in favour? Opposed, if any? That is carried.

Any further amendments?

Mr Gerry Martiniuk (Cambridge): If I may suggest, Mr Parsons, we should amend the explanatory note and the title of the act to reflect the change we've discussed and made in regard to the name.

Mr Parsons: Thank you. Excellent.

The Chair: Would you like to make the amendment, Mr Parsons, or, Mr Martiniuk, would you like to make that amendment?

Mr Martiniuk: No, I would like Mr Parsons to make that.

Mr Parsons: I would move that the explanatory note be amended to conform with—

Mr Albert Nigro: Excuse me, I wonder if I could address the members of the committee. My name is Albert Nigro. I'm legislative counsel. The explanatory note was written by my office, it was written by me, and I will amend the explanatory in my office as a matter of editorial policy to reflect the amendments made at the committee, so there's no need for a motion for that.

Mr Parsons: Thank you.

The Chair: What about the title? Do we need—

Mr Nigro: You would have to make a motion to amend the long title if you wanted to do that.

The Chair: So you will make that motion, right, Mr Parsons?

Mr Parsons: Yes. The amendment I'm making then is to change the title from "fetal alcohol syndrome" to "fetal alcohol spectrum disorder."

The Chair: Will we get that in writing?

Mr Parsons: Do I have to write it?

Interjection.

Mr Parsons: You will? Thank you.

The Chair: Any debate on this? All in favour? Opposed, if any? That is carried.

Any further amendments?

If not, then are members ready to vote on the bill, as amended?

Any further debate?

Shall section 1, as amended, carry? All in favour? Opposed, if any? That is carried.

Shall section 2, as amended, carry? All in favour? Opposed, if any? That's also carried.

Shall section 3 carry? All in favour? Opposed, if any? That's carried.

Shall the short title, as amended, carry? All in favour? Opposed, if any? That's carried.

Shall Bill 43, as amended, carry? All in favour? Opposed, if any? That's carried.

Shall I report the bill, as amended, to the House? All in favour? Opposed, if any? That is carried.

The meeting is adjourned. I want to thank all the participants for coming forward to help us with that. I especially want to thank Mr Parsons for the bill.

The committee adjourned at 1111.

CONTENTS

Wednesday 19 May 2004

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Chair / Président
Mr Tony C. Wong (Markham L)

Vice-Chair / Vice-Président
Mr Khalil Ramal (London-Fanshawe L)

Mr Bob Delaney (Mississauga West / Mississauga-Ouest L)
Mr Kevin Daniel Flynn (Oakville L)
Mr Rosario Marchese (Trinity-Spadina ND)
Mr Gerry Martiniuk (Cambridge PC)
Mr Phil McNeely (Ottawa-Orléans L)
Mr Bill Murdoch (Bruce-Grey-Owen Sound PC)
Mr Khalil Ramal (London-Fanshawe L)
Mr Tony Ruprecht (Davenport L)
Mrs Maria Van Bommel (Lambton-Kent-Middlesex L)
Mr Tony C. Wong (Markham L)

Substitutions / Membres remplaçants
Mr Brad Duguid (Scarborough Centre / Scarborough-Centre L)
Mr Peter Fonseca (Mississauga East / Mississauga-Est L)
Mr Pat Hoy (Chatham-Kent Essex L)
Mr Ernie Parsons (Prince Edward-Hastings L)
Mr Mario Sergio (York West / York-Ouest L)

Clerk / Greffier
Mr Trevor Day

Staff / Personnel
Mr Albert Nigro, legislative counsel

T-5

ISSN 1180-4319

Legislative Assembly
of Ontario

First Session, 38th Parliament

Official Report of Debates (Hansard)

Wednesday 16 June 2004

Standing committee on regulations and private bills

Chair: Tony C. Wong
Clerk: Trevor Day

Assemblée législative
de l'Ontario

Première session, 38e législature

Journal des débats (Hansard)

Mercredi 16 juin 2004

Comité permanent des règlements et des projets de loi d'intérêt privé

Président : Tony C. Wong
Greffier : Trevor Day

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Copies of Hansard

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

Exemplaires du Journal

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.

Hansard Reporting and Interpretation Services
3330 Whitney Block, 99 Wellesley St W
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
3330 Édifice Whitney ; 99, rue Wellesley ouest
Toronto ON M7A 1A2
Téléphone, 416-325-7400 ; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 16 June 2004

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 16 juin 2004

The committee met at 1005 in committee room 1.

CONRAD GREBEL UNIVERSITY COLLEGE ACT, 2004

Consideration of Bill Pr5, An Act respecting Conrad Grebel University College.

The Chair (Mr Tony Wong): This is the standing committee on regulations and private bills, and I call the meeting to order. The first order of business is Bill Pr5, An Act respecting Conrad Grebel University College. Mr Ted Arnott is the sponsor. I would now like to invite Mr Arnott and the applicant to come forward.

Mr Ted Arnott (Waterloo-Wellington): Good morning, committee members. We are very pleased to be here this morning to bring forward our private bill. This has been introduced on behalf of Conrad Grebel University College, which is affiliated with the University of Waterloo. With me today to speak about the bill are Mr Russel Snyder-Penner, who is the secretary of Conrad Grebel University College, and Kenneth Friesen, who is acting as legal counsel in support of this bill.

At this time, I'd like to turn it over to the applicant. They've got a short presentation to make about the bill.

Mr Russel Snyder-Penner: Thank you, Mr Arnott. I'm on the board of directors of Conrad Grebel University College and an the secretary.

The purpose of this bill has to do with a desire on the part of the board to improve our ability to exploit the accrued institutional experience that board members build up as they serve on the board. Under the current legislation, existing board members can be appointed to the board for a maximum of two three-year terms.

What we've been finding is that it can take one or two terms for a board member to build up the kind of experience they need in order to continue to make strong contributions to the board work, especially in responsible positions such as chairperson of the board. For that reason, it was considered to be a good idea to obtain an amendment to the legislation so that we can continue to have board members serving for up to three three-year terms. Plus, there's a provision in the new legislation which permits the board, by bylaw, to make further internal changes as far as practice is concerned relating to the length of term. We're hoping that what this will permit us to do is take advantage in the future of the experience board members have gained during service on the board when we're looking for candidates to fill the position, particularly of chair of the board.

By way of a bit of background as far as what Conrad Grebel University College is, it describes itself as a college of the Mennonite Church of Eastern Canada, which is essentially a conference of Mennonite churches in Ontario and Quebec. The college is affiliated with and is on the campus of the University of Waterloo. Its academic programs have strong emphases in areas of peace and conflict studies of Mennonite history and Mennonite theology and also has a very strong music program.

That's all I have to say by way of introducing this change, but of course I'd be happy to answer any questions you may have.

The Chair: Thank you. Any questions or comments from the parliamentary assistant?

Mrs Maria Van Bommel (Lambton-Kent-Middlesex): At this time, I would just like to say that the practice of three consecutive three-year terms is fairly common among boards. Having been on a board myself, I quite understand the learning curve that takes place. By the time someone comes to the point where they're ready to be the chair, one term of three years is not quite adequate.

In terms of the government's position on this, we are in favour and will be voting in favour of this.

1010

Mr Tony Ruprecht (Davenport): Conrad Grebel University College is known to us because of the Mennonite Conference. I'm looking especially here at the support of Mr Ted Arnott, who is sitting right next to you. Since he's the local MPP and has studied this very thoroughly, I've got no hesitation in supporting this bill.

The Chair: Any further questions or comments? Are members ready to vote?

Shall section 1 carry? All in favour? Opposed, if any? That is carried.

We can actually deal with more than one section at a time. So shall sections 2 through 5 carry? All in favour? Opposed, if any? That is carried.

Shall the preamble carry? All in favour? Opposed, if any? That is carried.

Shall the title carry? All in favour? Opposed, if any? That's carried.

Shall the bill carry? All in favour? Opposed, if any? That is carried.

Shall I report the bill to the House? All in favour? Opposed, if any? That's also carried. Congratulations.

REDEEMER UNIVERSITY COLLEGE ACT, 2004

Consideration of Bill Pr6, An Act respecting Redeemer University College.

The Chair: The next bill is Bill Pr6, An Act respecting Redeemer University College. Mr Ted McMeekin, MPP, is the sponsor. Will the sponsor and the applicant please come forward.

Mr Ted McMeekin (Ancaster-Dundas-Flamborough-Aldershot): I'm pleased to be here with my good friends from Redeemer University College to simply clean up a couple of things that we need to attend to, given some other legislative changes. I'd like to introduce Dr Justin Cooper, president of Redeemer University College, a great institution in my riding. He'll introduce his assistants, and hopefully we can go from there.

Dr Justin Cooper: Thank you very much. Let me also introduce, to my left, Bert Bakker, our legal counsel, and Ineke VanBruinessen, our senior director of administration and finance. I'd like to thank the committee for the opportunity to be here today to make some introductory remarks on behalf of Redeemer University College and Bill Pr6.

Let me say that Redeemer is an undergraduate Christian liberal arts and science university. We offer degree programs in 32 areas, leading to bachelor of arts and bachelor of science degrees, and we now have over 800 students taught by over 50 full-time equivalent faculty, of whom 41 are full-time. It may be of interest to know that we are currently adding a $6.2-million library-classroom expansion and planning an additional student residence to accommodate anticipated growth to 1,000 students.

Relevant to today, last June, on the recommendation of this committee, the Legislature granted Redeemer the power to offer a bachelor of education degree. In December 2003—this past December—this BEd degree program was granted initial accreditation by the Ontario College of Teachers. The program is ready to be launched in September.

We're before you today to satisfy a condition of the Minister of Training, Colleges and Universities, namely, that student protection measures required by ministry regulations for our new BEd degree program will be embedded in our provincial charter. These requirements serve to ensure student access to transcripts and to provide guarantees for student tuition so that students receive the educational programs for which they pay. We've worked with ministry officials and we have all the requirements in place, so that everything is in order to launch this new program in September. Approval of this charter amendment would be the final step in this process.

We appreciate very much the cooperation we've received from officials of the Ministry of Training, Colleges and Universities, in particular Jackie Creber and also Fiona Deller, who are here this morning. We appreciate the support of the minister, the Honourable Mary Anne Chambers, and also our sponsor, Ted McMeekin. We look forward to serving students in this new program.

The Chair: Thank you, Dr Cooper. Any comments or questions from the parliamentary assistant?

Mrs Van Bommel: Again, thank you very much for your presentation. I just need to enter into the record a statement by the minister, the Honourable Mary Anne Chambers, in which she states, "I am prepared to support the bill on the condition that the college has submitted proof to me that the relevant student protection measures are in place to my satisfaction by July 31, 2004."

I'm sure that you will do that, so from the government's perspective we will support this.

Dr Cooper: Thank you very much. As of today, we have all of the requirements in place. We simply need the final audit by Ernst and Young and we will have that in the minister's hands next week.

Mr Gilles Bisson (Timmins-James Bay): That just piqued my interest. What do you mean by "student protection"? Explain that a bit.

Dr Cooper: I can certainly speak to that. There are three aspects which come out of ministry regulations. One is that students must have access to their transcripts even if Redeemer would cease to exist. So we have an agreement with McMaster University that they would back up the transcripts. Secondly, another provision is a trust fund, if you accumulate tuition, so that these are available to students if we cease to exist. The third is a letter of credit. For up to two years, if they can't complete the program at Redeemer, they could draw their tuition back, take it somewhere else, and they are guaranteed the ability to complete the program. It's really to make sure that our students receive the education they deserve and the record of it.

Mr Bisson: I've sat on this committee before and it seems to me I remember Redeemer College coming before us for a similar piece of legislation. What happened?

Dr Cooper: What happened was the legislation passed and we were able to launch the program, but we were not, for a variety of reasons—I think the regulations were not yet firmed up as to exactly how student protection measures would be met. So between the time the degree was approved and we planned the program and had it accredited, the regulations, since January, have come into effect. So we're simply back to put the last period behind this whole process which began a year ago.

Mr Bisson: So not to redo what we did the last time, because that's been done.

Dr Cooper: Yes, to supplement.

Mr Ruprecht: Just a couple of questions, Dr Cooper. First of all, thanks for the presentation. How long has the new Redeemer University College been in existence?

Dr Cooper: We opened in 1982, so this is our 22nd year.

Mr Ruprecht: Are you affiliated with any conference? You are a Christian university, right?

Dr Cooper: We are a free-standing university and we don't have a formal relationship with any church or denomination. There are many people from the Reform Christian tradition that support Redeemer and helped to launch it. Today we serve a broad range of students from probably over 40 different denominational backgrounds. Many of them come from Ontario, but they come from across Canada, from 12 US states and from eight other countries.

Mr Ruprecht: So in case there's a Reformed Baptist in my riding and he'd like to join Redeemer University College, there should be no problem at all? In fact, you would invite him with open arms, right?

Mr McMeekin: We'd throw a barbecue for him.

Dr Cooper: That's right, open arms. We have a great number of folks like that at Redeemer and we're enriched to have them.

Mr Ruprecht: What really convinces me, though, I must tell you, is Mr Ted McMeekin, who is sitting right next to you. That's his riding. He knows you well.

Mr McMeekin: It's a wonderful institution, very diverse. The students are graduating and making a real difference in our community and around the world, and I'm really pleased with the leadership Dr Cooper and his board and folks have been providing.

Mr Ruprecht: Thank you very much for this very convincing statement.

Ms Marilyn Churley (Toronto-Danforth): I just want to make a simple point to you and the people who were here before. Our official member is not here this morning and we didn't put in a substitution slip, so if you don't see our hands go up, we'll be nodding. We're in support. I just don't think that we can officially vote this morning. I just wanted to explain what's happening here.

The Chair: Any further questions or comments from committee members? I guess we're ready to vote. Shall we collapse the three sections?

Shall sections 1 through 3 carry? All in favour? Opposed, if any? That is carried.

Shall the preamble carry? All in favour? Opposed, if any? That's also carried.

Shall the title carry? All in favour? Opposed, if any? That is carried.

Shall the bill carry? All in favour? Opposed, if any? That is carried.

Shall I report the bill to the House? All in favour? Opposed, if any? That's carried.

Thank you all for the application.

Mr McMeekin: I know there's some precedent for waiving the printing costs associated with this, if that were something the committee wanted to do.

Mr Ruprecht: I'll move that.

The Chair: So you move that, Mr Ruprecht—

Mr Ruprecht: Yes.

The Chair: —that the application fees and printing costs be waived. All in favour? Opposed, if any? That is carried.

Meeting adjourned.

The committee adjourned at 1021.

CONTENTS

Wednesday 16 June 2004

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Chair / Président
Mr Tony C. Wong (Markham L)

Vice-Chair / Vice-Président
Mr Khalil Ramal (London-Fanshawe L)

Mr Bob Delaney (Mississauga West / Mississauga-Ouest L)
Mr Kevin Daniel Flynn (Oakville L)
Mr Rosario Marchese (Trinity-Spadina ND)
Mr Gerry Martiniuk (Cambridge PC)
Mr Phil McNeely (Ottawa-Orléans L)
Mr Bill Murdoch (Bruce-Grey-Owen Sound PC)
Mr Khalil Ramal (London-Fanshawe L)
Mr Tony Ruprecht (Davenport L)
Mrs Maria Van Bommel (Lambton-Kent-Middlesex L)
Mr Tony C. Wong (Markham L)

Also taking part / Autres participants et participantes
Mr Gilles Bisson (Timmins-James Bay / Timmins-Baie James ND)
Ms Marilyn Churley (Toronto-Danforth ND)

Clerk / Greffier
Mr Trevor Day

Staff / Personnel
Ms Laura Hopkins, legislative counsel

T-6

ISSN 1180-4319

Legislative Assembly of Ontario

First Session, 38th Parliament

Assemblée législative de l'Ontario

Première session, 38e législature

Official Report of Debates (Hansard)

Wednesday 23 June 2004

Journal des débats (Hansard)

Mercredi 23 juin 2004

Standing committee on regulations and private bills

Organization

Comité permanent des règlements et des projets de loi d'intérêt privé

Organisation

Chair: Marilyn Churley
Clerk: Tonia Grannum

Président : Marilyn Churley
Greffière : Tonia Grannum

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Copies of Hansard

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

Exemplaires du Journal

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.

Hansard Reporting and Interpretation Services
3330 Whitney Block, 99 Wellesley St W
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
3330 Édifice Whitney ; 99, rue Wellesley ouest
Toronto ON M7A 1A2
Téléphone, 416-325-7400 ; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 23 June 2004

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 23 juin 2004

The committee met at 1006 in committee room 1.

ELECTION OF CHAIR

Clerk of the Committee (Mr Trevor Day): Honourable members, it is my duty to call upon you to elect a Chair. Any nominations?

Mr Gilles Bisson (Timmins-James Bay): I would like to nominate Marilyn Churley, the fine member from Toronto-Danforth.

Clerk of the Committee: Any further nominations? Seeing none, I declare the nominations closed and Ms Churley as the Chair of the committee.

ELECTION OF VICE-CHAIR

Clerk of the Committee: In her absence, we'll move to the election of the Vice-Chair.

Mr Bisson: I would like to nominate somebody. Can we turn the microphone off for a second, off record?

Mr Jean-Marc Lalonde (Glengarry-Prescott-Russell): I move Tony Wong as Vice-Chair.

Clerk of the Committee: Mr Wong has been nominated as Vice-Chair. Any further nominations? Seeing none, I declare the nominations closed and Mr Wong as the Vice-Chair of the committee.

APPOINTMENT OF SUBCOMMITTEE

The Vice-Chair (Mr Tony C. Wong): The third item is the subcommittee on committee business. Any motions from the floor?

Mr Toby Barrett (Haldimand-Norfolk-Brant): With respect to this standing committee on regulations and private bills—I thought I'd say that for Hansard—of Wednesday, June 23, I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair or on the request of any member thereof, to consider and report to the committee on the business of the committee; and that the subcommittee be composed of the following members: the Chair as Chair, Mrs Van Bommel, Mr Martiniuk and Mr Bisson; and that the presence of all members of the subcommittee is necessary to constitute a meeting.

The Vice-Chair: Thank you. Comments? All in favour? Opposed, if any? That is carried.

There being no further business, meeting adjourned.

The committee adjourned at 1008.

CONTENTS

Wednesday 23 June 2004

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Chair / Président
Ms Marilyn Churley (Toronto-Danforth ND)

Vice-Chair / Vice-Président
Mr Tony C. Wong (Markham L)

Mr Gilles Bisson (Timmins-James Bay / Timmins-Baie James ND)
Ms Marilyn Churley (Toronto-Danforth ND)
Mr Jeff Leal (Peterborough L)
Mr Gerry Martiniuk (Cambridge PC)
Mr Bill Murdoch (Bruce-Grey-Owen Sound PC)
Mr Tim Peterson (Mississauga South / Mississauga-Sud L)
Mr Khalil Ramal (London-Fanshawe L)
Mrs Maria Van Bommel (Lambton-Kent-Middlesex L)
Mr Tony C. Wong (Markham L)

Substitutions / Membres remplaçants

Mr Toby Barrett (Haldimand-Norfolk-Brant PC)
Mr Jean-Marc Lalonde (Glengarry-Prescott-Russell L)
Ms Judy Marsales (Hamilton West / Hamilton-Ouest L)

Clerk / Greffier
Mr Trevor Day

T-7

ISSN 1180-4319

Legislative Assembly
of Ontario

First Session, 38th Parliament

Official Report of Debates (Hansard)

Wednesday 27 October 2004

Standing committee on regulations and private bills

Chair: Marilyn Churley
Clerk: Tonia Grannum

Assemblée législative
de l'Ontario

Première session, 38e législature

Journal des débats (Hansard)

Mercredi 27 octobre 2004

Comité permanent des règlements et des projets de loi d'intérêt privé

Présidente : Marilyn Churley
Greffière : Tonia Grannum

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Copies of Hansard

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

Exemplaires du Journal

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 27 October 2004

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 27 octobre 2004

The committee met at 1100 in committee room 1.

KEY AIRCRAFT SERVICES INC. ACT, 2004

Consideration of Bill Pr7, An Act to revive Key Aircraft Services Inc.

The Chair (Ms Marilyn Churley): Good morning, everybody. I'll call the meeting to order. This is my first meeting as Chair, so bear with me. I apologize for being a few minutes late.

The next order of business is Bill Pr7, An Act to revive Key Aircraft Services Inc. I now want to introduce Linda Jeffrey, MPP. Do you want to come forward, Ms Jeffrey? Also Mr Robert Filkin, legal counsel, please come forward. Good morning.

Mrs Linda Jeffrey (Brampton Centre): Thank you for having us here. I'm Linda Jeffrey, MPP for Brampton Centre, and I'm here to sponsor Bill Pr7, a private bill. I would like to introduce Robert Filkin from McCabe, Filkin and Associates, who will explain the bill to the committee on behalf of the applicant.

Mr Robert Filkin: Thank you, Madam Chair. It's a very simple bill to revive a corporation called Key Aircraft Services Inc. This became necessary; the corporation was inadvertently dissolved by filing articles of dissolution before its business could be concluded, its final tax returns filed and its assets disposed of appropriately. So it was just a timing thing. The intention was to dissolve it, but the client decided to try to save legal fees and do it on their own, and did it before everything else could be completed. So now we're here, having to put it back in place so we can finish those things, and then it will be dissolved again.

The Chair: Thank you very much. Are there any others who wish to speak to this bill; any comments from the parliamentary assistant on the government's behalf?

Mrs Maria Van Bommel (Lambton-Kent-Middlesex): Certainly, we have no concerns about this. It seems that there was an inadvertent mistake made, and this will just rectify that. I understand that the company will eventually be dissolved anyway, so this is really a technical housekeeping issue. So we have no concerns or objections to this.

The Chair: Does anybody have any questions or comments? Well, this is simple for my first meeting.

Mr Khalil Ramal (London-Fanshawe): We want to make it easy for you the first time.

The Chair: Thank you very much. At the next one, there will be tough questions.

So are the members ready to vote? I'm going to look at my script here for how to do this. Let's see. What do I do here? There are no amendments, right? So I'm just going down through sections—but no amendments.

The Clerk of the Committee (Ms Tonia Grannum): Right.

The Chair: Thank you. All right. Let's try this again.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill in the House? All right. That's carried. We're done.

Thank you all very much, and thank you for coming today to present this. Thank you, Ms Jeffrey.

We are adjourned.

The committee adjourned at 1104.

CONTENTS

Wednesday 27 October 2004

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Chair / Présidente
Ms Marilyn Churley (Toronto-Danforth ND)

Vice-Chair / Vice-Président
Mr Tony C. Wong (Markham L)

Mr Gilles Bisson (Timmins-James Bay / Timmins-Baie James ND)
Ms Marilyn Churley (Toronto-Danforth ND)
Mr Jeff Leal (Peterborough L)
Mr Gerry Martiniuk (Cambridge PC)
Mr Bill Murdoch (Bruce-Grey-Owen Sound PC)
Mr Tim Peterson (Mississauga South / Mississauga-Sud L)
Mr Khalil Ramal (London-Fanshawe L)
Mrs Maria Van Bommel (Lambton-Kent-Middlesex L)
Mr Tony C. Wong (Markham L)

Clerk / Greffière
Ms Tonia Grannum

Staff / Personnel
Ms Susan Klein, legislative counsel

T-8

ISSN 1180-4319

Legislative Assembly
of Ontario

First Session, 38th Parliament

Assemblée législative
de l'Ontario

Première session, 38e législature

Official Report of Debates (Hansard)

Wednesday 15 December 2004

Journal des débats (Hansard)

Mercredi 15 décembre 2004

Standing committee on regulations and private bills

Comité permanent des règlements et des projets de loi d'intérêt privé

Chair: Marilyn Churley
Clerk: Tonia Grannum

Présidente : Marilyn Churley
Greffière : Tonia Grannum

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Copies of Hansard

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

Exemplaires du Journal

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 15 December 2004

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 15 décembre 2004

The committee met at 1101 in committee room 1.

CITY OF BRAMPTON ACT, 2004

Consideration of Bill Pr10, An Act respecting the City of Brampton.

The Chair (Ms Marilyn Churley): The standing committee on regulations and private bills is called to order.

This morning, the next order of business is Bill Pr10, An Act respecting the City of Brampton. Ms Linda Jeffrey, MPP, is sponsoring the bill, and I would ask her and the applicants to please come forward.

Good morning. We have Ms Jeffrey, as well as Clay Connor and Ms Christine Viinberg. Would the sponsor like to make a few comments?

Mrs Linda Jeffrey (Brampton Centre): I would just say good morning, Madam Chairman and committee, and introduce Clay Connor, who is legal counsel for the city of Brampton, along with Christine Viinberg. They're here to explain the details of the bill.

The Chair: Would Mr Connor or Ms Viinberg like to proceed?

Mr Clay Connor: Yes, I'll start, Madam Chair. Thank you for being here today and hearing us. In order to understand the purpose behind this application today, it's necessary for Ms Viinberg and I to take you on a journey into the esoteric world of municipal bonusing. We've divided our presentation. I'll be giving you some background and history on the bonusing legislation in Ontario—you might call it Municipal Bonusing 101—to provide you with some sort of a framework for consideration of our bill and what it is we're asking for today. Ms Viinberg will then go into the specifics of the legislation, as we've drafted it, and the safeguards we've tried to build in. We'll conclude by giving you a practical example of the situation that this bill is intended to address.

To start, we need to look at the basic prohibition found in section 106(1) of the Municipal Act, 2001. It states, "Despite any Act, a municipality shall not assist directly or indirectly any manufacturing business or other industrial or commercial enterprise through the granting of bonuses for that purpose."

Section 106(2) goes on to set out some examples of the types of assistance that are prohibited. It states:

"Without limiting subsection (1), the municipality shall not grant assistance by:

"(a) giving or lending any property of the municipality, including money;

"(b) guaranteeing borrowing;

"(c) leasing or selling any property of the municipality below fair market value; or

"(d) giving a total or partial exemption from any levy, charge or fee."

It's the prohibition on leasing or selling municipal property below fair market value that we're concerned with here today.

For this next section of my presentation I'm indebted to the research of Brian Bucknall, who is a senior partner at the law firm of Osler, Hoskin and Harcourt; the research he did for his May 1988 paper entitled, "Of Deals and Distrust: the Perplexing Perils of Municipal Bonusing."

Mr Bucknall points out that the bonusing prohibition did not always exist in the province of Ontario. In 1871 there was an amendment to An Act Respecting the Municipal Institutions of Upper Canada that allowed municipalities to pass bylaws "for granting bonuses to any railway and to any person or persons, or company, establishing and maintaining manufacturing establishments within the bounds of such municipality, and for issuing debentures payable at such time or times, and bearing or not bearing interest, as the municipalities may think desirable for the purpose of raising money to meet such bonuses."

Bucknall notes that this power was expanded two years later into a broader scheme for aiding manufacturing establishments by giving the power to grant sums of money in respect of such branch of industry as the municipality may determine, provided that the assent of the electors was obtained before the bylaw was passed.

This scheme was abandoned in 1892. Mr Bucknall quotes C.W.R. Biggar, the author of the Municipal Manual of 1900, who wrote:

"Attempts to nourish manufacturing industries by means of the artificial stimulus of bonuses taken from the pockets of local taxpayers usually produced an unhealthy condition in the body politic and ended in disappointment and loss."

Two new bonusing schemes were introduced in the Municipal Amendment Act of 1900, which allowed mu-

nicipalities to grant bonuses "in aid of any manufacturing industry" and "for the promotion of manufacturing within the limits of the municipality." Both provisions required the consent of two thirds of all the ratepayers entitled to vote on the bylaw, and in the latter case, the written consent of owners of existing industries in the municipality had to be obtained if their products were similar to those of the proposed new industry that was going to be bonused.

These were eliminated with the Bonus Limitations Act in 1924. Mr Bucknall quotes the Premier of the day in introducing this legislation as follows: "One could not go through the province today without seeing in many of the smaller places dismantled buildings (that were) once industrial concerns which had been bonused. As soon as the artificial aid had been withdrawn, the industry vanished."

Even the Bonus Limitations Act allowed for some form of bonusing, and this was by way of a fixed assessment for up to 10 years for the industry, subject to the usual consent of the electors and other industries. This was finally removed in 1962, and the basic prohibition that we see in the Municipal Act today was put in place at that time.

The purpose of this brief history lesson is to illustrate that the Legislature's intention in curtailing the ability of municipalities to bonus was to prevent unseemly competition between municipalities for industry that had a deleterious effect on both the local tax base and the local economy. As you will see, the sorts of transactions we're proposing to be able to deal with in this legislation do not fall into the category of mischief that the anti-bonusing legislation was intended to prevent.

As I wrap up my part of the presentation, I'd be remiss if I did not indicate to you that municipal bonusing is permitted in Ontario in a variety of ways, notwithstanding the basic prohibition in subsection 106(1) of the Municipal Act. Subsection 106(3) provides that "Subsection (1) does not apply to a council exercising its authority" with respect to the sale or lease of land or the making of grants for the purpose of carrying out a community improvement plan under section 28 of the Planning Act.

Section 108 of the Municipal Act provides that "Despite section 106, a municipality may provide for the establishment of a counselling service to small businesses operating or proposing to operate in the municipality." With the approval of the Lieutenant Governor in Council, the municipality may establish such a program and, once the program is approved, the municipality may lease land to small businesses and acquire land and erect or improve buildings in order to provide leased premises for eligible small businesses. The intent of that program is that you provide subsidized rent to allow the businesses to get off the ground.

Finally, subsection 110(3) of the Municipal Act, 2001, provides that "Despite section 106, a municipality may provide financial or other assistance at less than fair market value or at no cost to any person who has entered into an agreement to provide" municipal capital "facilities ... and such assistance may include ...

"giving, lending, leasing or selling property."

In each of these examples, the province has looked at the exception of the bonusing prohibition at the program level. They've established rules and regulations that municipalities have to follow in implementing the program. The province didn't get involved in each individual transaction; they left that up to the discretion of the municipality to apply the legislation and the rules properly.

As you will see in Ms Viinberg's presentation, in the proposed bill that's before you today, we have established rules that prescribe certain limits on the powers we're asking for today.

Ms Christine Viinberg: As Clay mentioned, the city of Brampton is proposing the bill before you because the general prohibition in section 106 has limited its ability to deal with specific land transactions in the development process such that it can't create equitable solutions in those situations, and that this limitation is unnecessary in these situations.

1110

Specific land transactions that are going to be addressed by the bill are those where the city has required land from a developer during the development process for no or nominal consideration for something like a road and then, during the development process, the plan has changed and the city no longer requires that land for the road, as an example. The city then wishes to convey that land back to the developer at an equitable price. Currently, under section 106, the city must convey that land back for fair market value, even if the city received the land for no or nominal consideration and perhaps it only held on to it for a short period of time. Although these situations are relatively infrequent in the city, relative to how much development is going on in Brampton, they do arise, and they can be quite complicated situations.

Therefore, the city of Brampton is proposing the bill before you today. The bill essentially does two things. The first thing is it provides authorization for the city to sell land at less than fair market value in these situations. Thereby, it does grant some flexibility to the city to facilitate equitable resolutions to these situations, despite section 106. But, as Clay mentioned, on the other hand, what the bill also does is impose four safeguards to ensure that the city's decision-making process is consistent, thorough and open to the public. I'll just go through the four safeguards that you'll see in the proposed bill.

The first one is that the city can only use this authority if it's dealing with land that was conveyed to it for no or nominal monetary consideration, pursuant to four of the development-related sections in the Planning Act; for example, if the city was conveyed land during the subdivision approval process. That means the city can't just use this authority in its everyday dealings with land, which are many, as you can imagine.

The second safeguard is that the city must declare the land surplus, pursuant to the formal process under

subsection 268(3) of the Municipal Act. That process involves three important stages. First of all, the realty services department in our municipality, as well as any other relevant departments such as community services, does an analysis to determine whether that piece of property is necessary for any municipal process. Then an appraisal must be done to determine fair market value of that piece of property to create a benchmark by which to work and discover the equitable cost of the land. The third thing, very importantly, is public notice must be given regarding the sale of the land.

The third safeguard we've included in the bill is that the city can only convey the land to one of two parties. It can't just convey this land to anybody it chooses. It must be the person who conveyed the land to the city for nominal or no consideration in the first place—so it's like a re-conveyance back—or to an adjacent landowner to the piece of property we're dealing with, if that adjacent landowner was a subsequent person in title to the person who conveyed the land to the city.

The fourth safeguard we've included is that council must declare in a bylaw that the sale at fair market value for this property would be inequitable in all of the circumstances and with all of the information they have received thus far.

The city's position in this instance is that although the bill would create some flexibility in order for the city to deal with these specific transactions and create an equitable situation, there are also safeguards in the bill to ensure that the process in determining this equitable price would be open, consistent and thorough.

Clay will present to you a current situation where the city feels it would be beneficial and appropriate for this bill to apply.

Mr Connor: I'm going to try to move this map so that everybody can see it. The light in here isn't all that great, but we'll do the best we can. I find that in dealing with problems like this, I think better if I've got a concrete example to focus on, and I think even better if somebody shows me a map or a picture, so we've brought a map along today.

This is an area of land in Brampton that is subject to plans of subdivision. It's not in your riding, Mr Dhillon, it's Brampton east, but it's the Airport Road area and I'm sure you're familiar with it. The developer came in to subdivide all this land I've outlined in blue. They did it in three phases: This piece here was phase 1, this piece here was phase 2 and the looping piece here was phase 3.

When the subdivision came on for phase 1, this little block I have highlighted in pink was deeded to the city for future road. When phase 2 came along, this block down here in purple was deeded to the city for future road. Consideration was $2 in each case. This was done because originally the developer had planned a road network up here in phase 3 that would hook in, so it made sense for this to be future road. Over the course of development, by the time the developer gets to phase 3, the plans change, the road network no longer lines up and the developer asks us if he can have these two blocks back that he conveyed to us for $2 apiece for building lots that would complete the subdivision.

That's where we get caught by the bonusing provision, because the developer is a commercial operation and the rules against bonusing say we have to sell the land back at fair market value. So basically you're in a situation where the developer would essentially be paying twice for these two lots. Our council thinks that's kind of unfair.

Had the developer come in initially all in one phase with a plan of subdivision for the three pieces showing these two as lots, it would have been approved and we wouldn't be here today. But because of the vagaries of the planning process and how things change from the time you start at phase 1 to phase 3, we get caught with this technical bonusing situation.

I would submit to you that this isn't the type of situation bonusing was intended to prevent, and that it's the type of situation we ought to be able to fix. That's why we're here with this bill today.

The Chair: Thank you very much, Mr Connor and Ms Viinberg. We have an interested party here. I think what we'll do is call him first and then I'll open the floor to questions to any of the applicants here today, or the sponsor. So perhaps you would like to come forward, Mr Michael Burke, city solicitor of the corporation of the city of North Bay.

Mr Michael Burke: Good morning and greetings from the mayor and council of North Bay. It was a lovely drive down on a nice bright day.

The Chair: I just want you to know that I have a little house in Restoule, not far from North Bay, so welcome. Is there a lot of snow up there?

Mr Burke: It was very fine but very chilly this morning. It was nice to come down to the warmer climes, as we came down the highway. We hope to get a warmer reception here, too.

I am here to speak on behalf of the council. The council passed a resolution to support this bill. We are in general support of this bill. We are not seeking an amendment. An earlier letter had indicated that we would be seeking an amendment because of the notice provisions. We can't do that; we're content not to do that.

Generally speaking, we believe that the bonusing prohibition is too broad and needs to be relaxed. In this specific case, this is a very necessary and appropriate general amendment that should apply. These scenarios happen regularly. The planners and the engineers come forward saying they absolutely need some land. In three scenarios I've dealt with lately, they were sure a road was going to be a collector road 86 feet wide. Later on, we did an EA and it turns out it was only ever going to be a local road because that was all the council would ever approve. We're now left with an extra 20 feet that we got from the developer that he needs to buy back and pay for twice in order to carry on with his development.

These restrictions are very narrow and would apply only in those circumstances, and it's a very fair and equitable thing to do. I can tell you that it puts the council

in a very unfair and inequitable position when they have to say to a developer, "Yes, we know we took it from our planners, and we thought, because our planners said so, that we were doing the right thing. It turns out we don't need it any more, but if you want it, you've got to pay for it." So it's really a fundamentally unfair thing.

1120

We will regularly keep a road access across a line of lots into what might be another development. Twenty years later, it's still bush and all anybody wants to do is put a house on it. The planners and the parkland people now recognize that there's only ever going to be bush behind it, and it should be given back to the people we got it from for nothing.

Finally, I would submit that the Legislature has allowed similar restrictive exemptions in the past to general Municipal Act amendments. I can recall that for many years there was cash in lieu of parking exemptions provided to try to facilitate development in the downtown and it was done by private legislation. Eventually, those terms found themselves exactly in the Municipal Act and it became a general term, but I don't think that's a reason not to pass this bill. These are very well thought out restrictions, and we commend them to you.

The Chair: Thank you very much. I would ask if the parliamentary assistant has any comments to make on behalf of the government.

Mrs Maria Van Bommel (Lambton-Kent-Middlesex): I have a few questions initially, if that's OK with the Chair.

The Chair: Sure.

Mrs Van Bommel: How long since this first happened? When did the developer first convey this property to the municipality?

Mr Connor: The phase 1 plan was registered on September 24, 2000, so the conveyance would have been within a week or two of that date.

Mrs Van Bommel: In other words, the municipality has forgone tax revenues from those two particular properties since then?

Mr Connor: That's correct. When they become municipally owned, they're exempt from taxation.

Mrs Van Bommel: My understanding is that this kind of thing could have been put in the original contract. You could have had a clause in there that basically said that if the municipality felt the property was surplus, or it no longer had need of the property, they could convey that back to the individual they got it from in the first place without having to worry about section 106. Why wasn't that done?

Mr Connor: With all due respect, hindsight is 20/20. There are situations that we do anticipate. For example, if you have a dead-end road in a subdivision and you take a temporary turning circle, you know that at some point in time you will be giving it back, so you provide for that in the subdivision agreement.

Brampton is a busy place. For the past few years, we have been growing at a rate of 23,000 people a year. The latest population projections we got just this fall indicate that the population of Brampton that we anticipated hitting in 2031, we're going to hit in 2016. So we're putting through a lot of subdivisions and we're under a lot of pressure from the development community to put these things through. In doing the subdivision agreements, it's difficult, in the face of these pressures, to stop and wordsmith any eventuality that may or may not occur. You basically deal with what you've got in front of you and anticipate what is logical at the time, and if a problem comes up down the road, you figure you'll deal with it down the road, but life must go on.

Theoretically, yes, you might have thought of it. But practically speaking, I don't think it's that reasonable.

Mrs Van Bommel: OK. Could I make some comments at this point?

The Chair: Sure.

Mrs Van Bommel: I have some real concerns about this proposal, because I feel it gives you, as a municipality, very broad powers, very general powers. I'm quite sure the current municipality and municipal council would want to be very careful about it. It gives you powers to convey back land for less than market value, which, first of all, is bonusing under section 106.

My concern is that it sets your municipality apart from other municipalities in this province, because other municipalities don't enjoy that kind of privilege. And if we were to convey that to you, I know there are others waiting in the wings to have exactly the same kind of powers to do that.

The Municipal Act—and I quite understand your concerns about what this does in terms of comments about 106 and the bonusing issue being too broad, and it needs to be relaxed. But the Municipal Act is currently under review and I would think it would be more appropriate to have that brought forward at the time of the review and have that type of power conveyed to all municipalities in this province, rather than each one, one at a time. Because like I say, it has the ability to also create an unfair competition from municipality to municipality, where one municipality has the power to do this kind of thing and it isn't considered bonusing under 106, yet a neighbouring municipality of yours wouldn't have the same power, or they would have to come to the Legislature just as you have, to have those kinds of powers for them as well. Like I say, I would rather see this brought forward during the review of the Municipal Act and that, if it were to be given, it would be given to all municipalities equally. I think consistency across the province on this issue is very important.

The Chair: I don't know if you want to respond to that right away, but I think it would make more sense to see if there are other questions or comments from committee members. I would ask if there are.

Mr Gerry Martiniuk (Cambridge): I'm trying to read clause (2)(b); it's rather convoluted. I take it that there you are talking about the successor of the original owner of the whole land.

Mr Connor: Yes.

The Chair: Any other questions to anybody—the applicant, the parliamentary assistant, interested party?

Mr Gilles Bisson (Timmins-James Bay): I'd like to see the answer to that question.

The Chair: Sure. Would you like to respond?

Mr Connor: I'm just jotting down a few notes to make sure I hit all the points. First of all, the notion that it's a private bill and it only applies to Brampton: I've been in this business for about 25 years. I can recall coming down and sitting in this very room back in the mid-1980s seeking private legislation to have the authority to pass bylaws to regulate the placing or dumping of fill in municipalities. We weren't the first one to ask for it; we were maybe third or fourth in line. After about 10 municipalities went the private bill route, it made its way into the Municipal Act. That's sort of been the standard way municipal affairs has dealt with these things over the years when somebody comes to them with a new idea: "We suggest you go the private bill route. Let's see it as a pilot project. If it works, if there are no problems, then maybe it makes some sense to put it into the act and make it a general application." Fill is the one example that I know of.

In terms of having something that no other municipality has and it might give us a competitive advantage, as far as I know, we're the only municipality that has the right to sell air rights above a public highway.

Mr Bisson: Air rights?

Mr Connor: Air rights above a public highway. It was a private bill that went through this committee and went through this Legislature. We haven't used it. The development scheme for which we got that legislation—by the time they took a look at the building code, the cost of building the building over there made it prohibitive, but potentially we'd get—

Interjection.

Mr Connor: Well, we were asked, "What happens if you get to the jet-cars, like the Jetsons?" and my response was, "If you get to that day, you've got bigger problems than this to deal with."

Something like that, I suggest, would give us far more of a competitive advantage than this thing will and, frankly, if this spurs other municipalities to come forward and it ultimately winds up being in the Municipal Act, good. But I would like to see this particular bill go through, because we have homeowners sitting here, here, here and here, wanting to know what's going to happen to the land beside them, and they've been waiting almost a year for an answer.

The Chair: Thank you. Sorry about that. I was remiss in not asking for a response to Mr Martiniuk's question on that section.

Mr Martiniuk: No, I've had my question.

The Chair: And you got the answer. All right. Mr Bisson.

1130

Mr Bisson: I wanted to hear what your response was going to be to the parliamentary assistant, because I've sat on this committee as well and I've seen, over the years, acts passed by this committee and eventually passed into law that give them rights other communities don't have. I concur with your point that often this is one of the ways municipal affairs tests something out. Rather than do one big provincial policy and say, "This is the cookie-cutter approach to everybody," you confer on the municipality the ability to do something, and, "If it doesn't work, you're going to pay for it." To the parliamentary assistant, I would just say that I'd be in favour of saying, "Why not?"

The Chair: Mr Burke, do you want to comment?

Mr Burke: As one of the municipalities that would not have the advantage, let me say that we would still say, "Good for Brampton; good for them for bringing it forward." I would submit that in these particular circumstances and these kinds of restrictions, there is no competitive advantage. This is dealing with the fine-tuning of subdivisions. It's dealing with the fine-tuning of widths of roads and giving back very small pieces of access rights. This is not what bonusing was intended to prevent; I think this is one of the problems that bonusing creates. This is not a case where competitive advantage would be obtained by Brampton over North Bay. They've got a competitive advantage in southern Ontario. We'll take some other stuff for northern Ontario.

The Chair: Mr Martiniuk, you had another question?

Mr Martiniuk: I'd like to address this. There are two principles involved: first, of course, the prohibition of bonusing, and I think we all agree with that and saw the harm it did in the past. However, in the modern-day world, with shifting boundaries and roadways of subdivisions, this type of problem does arise on many occasions. Hopefully the Municipal Act, once reviewed and passed—it's like waiting for Godot, unfortunately. Once that occurrence takes place some time in the near or far future, that's not going to help the city with this problem.

When the road pattern was changed, there would have been other dedications of land, of necessity, and these are obviously surplus. It was a mistake, in fact, at the time, and I can see no harm in returning lands to the original owner or their successor, as clause 1(2)(b) states.

The Chair: The parliamentary assistant and then Mr Bisson.

Mrs Van Bommel: I was going to say, first, that about the airspace thing I can't really speak for what the committee has done in the past; that's quite news to me.

I still have concerns about this, though, because of the very fact that North Bay is here and I know they would like to have something very similar. You're quite right: Very often, private member's bills have brought certain issues to the attention of varying ministries—

Mr Bisson: Private bills.

Mrs Van Bommel: Private bills; pardon me. Thank you. Because of that and the very fact that you have brought this forward and the very fact that we have North Bay here, I think has certainly brought this to the attention of the Ministry of Municipal Affairs, the whole issue around the need to relax some of the restrictions around bonusing. But at this point I still think that, in general, I am very concerned about the powers it gives to

one municipality and the fact that we will have others that will come forward with similar.

If the Municipal Act wasn't under review, we would deal with this differently, but because it has been brought to our attention through this, I still oppose the general nature of your bill, but I think we could accommodate the particular need you're talking about there, doing a very site-specific amendment to this bill so that we can help you deal with that particular situation right now, and then, through the review of the Municipal Act, deal with the whole issue of bonusing so that we are equitable to all municipalities in this province.

Mr Bisson: That's kind of useful. My original question was, is there anybody we're aware of in this committee who is opposed to this, other than the parliamentary assistant? Are there interested parties around the neighbourhood? Is there anybody here who has a problem with this? Just to the clerk, have we received any—

Clerk of the Committee (Ms Tonia Grannum): No other interested parties.

Mr Bisson: Your suggestion is interesting. What you're suggesting is that we amend the legislation so they can deal with this specific example and the response from the municipality?

Mr Connor: We have no instructions from our council to agree to a site-specific amendment to this bill, and I would just go back to the other exceptions to bonusing, which were always done on a program basis and not on an individual transaction basis.

I can do no better than quote Minister Gerretsen in his speech to AMO, when he said, "Our government sets a high premium on local democracy, on local decision-making, on local government. We don't believe you need the province looking over your shoulder at every juncture."

Mr Bisson: Hear, hear.

Mr Connor: What it basically comes down to is, and I'll be blunt, either the ministry trusts the council of the city of Brampton to use this legislation wisely or they don't.

Mr Khalil Ramal (London-Fanshawe): I just want to comment about the proposal to cancel the bonusing law, which permits the city of Brampton to sell and buy and give whatever land they feel is good for them and good for the city of Brampton. Technically and logically, I would agree on the principle, but what the parliamentary assistant has said and what has been mentioned doesn't mean we have to just give an open advantage to one city over many municipalities in this province.

Mr Bisson: Are you the local representative?

The Chair: Order, please, Mr Bisson.

Mr Bisson: I'm just curious.

Mr Ramal: I think what the parliamentary assistant mentioned—

Interjection.

Mr Ramal: London-Fanshawe.

The Chair: Go ahead. Sorry for the interruption from my colleague.

Mr Ramal: No problem. He always does it anyway, so I got used to him.

Mr Bisson: The new ridings in southern Ontario all look the same to me.

The Chair: I call the meeting to order, please. Go ahead, Mr Ramal.

Mr Ramal: I want to be fair. In the whole province, if you're going to eliminate such a section and permit one city, we have to make sure all the cities across the province are being treated equally. Then I agree with the parliamentary assistant that we can work on and amend this issue in order to permit the city of Brampton to deal with the specific sites, and not give them permission open-handedly to do whatever, especially now, with the Municipal Act under review by our government and Mr Gerretsen. I think it's fair to wait and see, and then we can deal with the specific issues right now.

Mr Bisson: I just warn this committee. I've been on this committee for some time and I've heard that speech many times. It doesn't come into the Municipal Act, because there is no pressure to put it there. So it's like, nudge, nudge, wink, wink, "Trust me."

I think it comes down to what Mr Connor said, that either we trust municipalities to do their jobs or we don't. I don't see this as being something that would really put other communities in an adverse position. If another community thinks they need such a statute conferred upon them, let them come before our committee; and as was said earlier, if three or four communities come here asking the change, that will create pressure to make the changes to the Municipal Act.

I'm sorry; I know you're an honest person and you say it in all sincerity, but I've been down this road too many times before and know that those kinds of comments don't end up being legislation. I would move that we actually vote for this and give them the power they need.

The Chair: Are we ready to vote?

Mr Ramal: Just one comment: Mr Connor brought the map and he wants some kind of adjustment to the act to deal with certain sites. I think it would be unfair—especially the parliamentary assistant—for the minister to deal with these issues, as it is a question and concern why we don't deal with it as a separate issue and then—

Interjection: A proposal.

Mr Ramal: A proposal. Yes.

The Chair: Just let me be clear on what you're asking. You're suggesting that an amendment be put forward to deal specifically with this site?

Mr Ramal: Yes.

The Chair: Excuse me a moment. We're going to discuss this.

I understand from the clerk that, as we proceed, the parliamentary assistant has some amendments to make.

Mr Bisson: Chair, to be helpful, I was just doing a sidebar with the municipality and they're saying no. Maybe you can speak to it yourself.

Mr Connor: Our instructions were to proceed with the bill as drafted. We have no instructions to agree to any site-specific amendments, and if we're not successful, we're not successful.

The Chair: I understand you don't have the authority, but I also believe the committee can make amendments

and vote on them. Just so everybody understands. We hear what you're saying Mr Connor, but the committee can vote it down, but they can put forward amendments.

Mr Bisson: I was just trying to be helpful, Chair.

The Chair: I really appreciate it. He's always very helpful.

Why don't we begin the process here? Just give us a moment here while we sort this out.

Mrs Van Bommel: I will have two amendments, one to the preamble and one to section 1 of the bill. In section 1 of the bill—

The Chair: Excuse me just one moment. We're starting the process now, and I'll just go through the sections, and then you can—

Mrs Van Bommel: I just wanted to make one particular comment. I need legal descriptions of the two properties to incorporate into the second amendment. I would need that from the municipality, and if the municipality is not willing or wanting to—

The Chair: Or able to.

Mrs Van Bommel: —give us that information, we can't proceed anyway. I guess we need to have a willing partner in this in order to make this work.

The Chair: It might be useful, if you agree at all, to take a couple of minutes to recess so you can chat about this and see whether you want to proceed with this or not. Is that agreeable?

Mr Connor: Sounds like a good idea.

The Chair: I'll ask for a five-minute recess then.

The committee recessed from 1143 to 1145.

The Chair: Thank you again for your assistance, Mr Bisson. I'm calling the meeting back to order. I believe the parties have had an opportunity to discuss this matter. Mr Connor?

Mr Connor: I had a chance to speak to the parliamentary assistant. We would like to have this matter deferred. It would give us an opportunity to obtain legal descriptions for both properties that are the specific problems and would also give us a chance to go back to our council, perhaps give them the flavour of the committee's deliberations and get some more current and specific instructions.

Mr Bisson: I just want the record to show that, as a New Democrat, I support you getting this power.

The Chair: OK. Does the committee agree that we proceed in this way? Is that agreed? Agreed. That's it. The meeting is adjourned. Thank you all very much.

The committee adjourned at 1146.

CONTENTS

Wednesday 15 December 2004

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Chair / Président
Ms Marilyn Churley (Toronto-Danforth ND)

Vice-Chair / Vice-Président
Mr Tony C. Wong (Markham L)

Mr Gilles Bisson (Timmins-James Bay / Timmins-Baie James ND)
Ms Marilyn Churley (Toronto-Danforth ND)
Mr Kim Craitor (Niagara Falls L)
Mr Kuldip Kular (Bramalea-Gore-Malton-Springdale L)
Mr Gerry Martiniuk (Cambridge PC)
Mr Bill Murdoch (Bruce-Grey-Owen Sound PC)
Mr Khalil Ramal (London-Fanshawe L)
Mrs Maria Van Bommel (Lambton-Kent-Middlesex L)
Mr Tony C. Wong (Markham L)

Substitutions / Membres remplaçants
Mrs Carol Mitchell (Huron-Bruce L)
Mr Vic Dhillon (Brampton West-Mississauga / Brampton-Ouest–Mississauga L)

Clerk / Greffière
Ms Tonia Grannum

Staff / Personnel
Ms Susan Klein, legislative counsel

T-9

ISSN 1180-4319

Legislative Assembly
of Ontario

First Session, 38th Parliament

Official Report of Debates (Hansard)

Wednesday 9 March 2005

Standing committee on regulations and private bills

Chair: Marilyn Churley
Clerk: Tonia Grannum

Assemblée législative
de l'Ontario

Première session, 38e législature

Journal des débats (Hansard)

Mercredi 9 mars 2005

Comité permanent des règlements et des projets de loi d'intérêt privé

Présidente : Marilyn Churley
Greffière : Tonia Grannum

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Copies of Hansard

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

Exemplaires du Journal

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 9 March 2005

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 9 mars 2005

The committee met at 1102 in committee room 1.

KITCHENER-WATERLOO Y.M.C.A. ACT, 2005

Consideration of Bill Pr11, An Act respecting The Kitchener-Waterloo Young Men's Christian Association.

The Vice-Chair (Mr. Tony C. Wong): I call the meeting to order. The only order of business is Bill Pr11. MPP Elizabeth Witmer will be sponsoring this bill.

Would you like to come forward at this time.

Mrs. Elizabeth Witmer (Kitchener–Waterloo): It's with great pleasure that I introduce Bill Pr11, An Act respecting The Kitchener-Waterloo Young Men's Christian Association. I would also like to introduce to you the applicants, who will make a few points: John Haddock, the chief executive officer, and Dwayne Kuiper, the legal counsel. At this time, I do believe Mr. Haddock is going to make some comments.

The Vice-Chair: Welcome to you both.

Mr. John Haddock: Thank you, Mr. Chair. Kitchener-Waterloo YMCA is a single association that is serving the adjoining cities of Kitchener and Waterloo. The Kitchener-Waterloo area has been experiencing rapid growth over the past few years. In response, the YMCA has been expanding its services as a community organization to meet some needs. This bill alleviates a current disparity between the two municipalities and will enable the YMCA to better serve the residents of both Kitchener and Waterloo.

Those would be the key points, but also, as a charity, I would request that the committee consider returning associated fees and printing costs related to this bill.

The Vice-Chair: This is all that you would like to say at this time, right?

Mr. Haddock: Yes.

The Vice-Chair: I'd like to ask the PA first, if that's OK with members. Any comments from the PA?

Mrs. Maria Van Bommel (Lambton–Kent–Middlesex): Just a quick question: What is the common practice in relation to other YMCAs across the province?

Mr. Haddock: I can't speak on behalf of all YMCAs, but I do know that when I was in Owen Sound in the late 1980s, a private bill was introduced similar to this, so I believe most YMCAs have this treatment within their own municipalities.

Mrs. Van Bommel: What is the current status? Are you currently paying taxes?

Mr. Haddock: I believe in Kitchener, no, and in Waterloo there have been some site-specific designations.

Mr. Gilles Bisson (Timmins–James Bay): I just want to be clear. You currently have exemption on some of your property, right?

Mr. Haddock: I believe it's the city of Kitchener.

Mr. Bisson: So only some of your properties are exempt and others are not?

Mr. Haddock: Yes.

Mr. Bisson: So my next question, obviously, is, what's the position of the municipalities? What are they saying?

Mr. Haddock: There has been no opposition. There's a letter from the city of Waterloo indicating no opposition.

Mrs. Witmer: The city is supportive, Mr. Bisson, in this request.

Mr. Bisson: How much property are we talking about? Have you got a fair amount of buildings or property?

Mr. Haddock: No, we have some small programs in a few sites.

Mr. Bisson: Obviously, this would apply if there was an expansion in the future, so you wouldn't have to come back to this committee in order to get further exemption?

Mr. Haddock: Correct.

Mr. Bisson: OK. I think my last question is the same question that Mrs. Van Bommel had, and I'm not sure there is an answer, but is there any sense of what the uptake is by other YMCAs across the province taking a similar position? Is there anybody who has that information? I'd just be kind of curious.

Mr. Haddock: I'm not sure. Each association has its own relationship with its municipality, and I believe a number have this treatment. You will note in the file that in the 1920s we actually had this and then—I'm not quite sure what the reason was, but we're basically asking to be returned to that status.

Mr. Bisson: I'm just curious, because I know this is an issue that we deal with at the municipal level, and a number of organizations—the Legion and others—bring these forward to the municipalities. The municipality, as I understand, has the right to grant this anyway, right? If I could just get a bit of an explanation from legislative

counsel. Currently a municipality has the right to exempt the municipal taxes of such an organization?

Mr. Ralph Armstrong: Such is my understanding, sir. I think perhaps legal counsel for the YMCA might be in a better position to roll you through the points on that.

Mr. Bisson: And answer my second question: Why, then, is this necessary? It's not that I'm opposing; I'm just trying to figure out in my own mind why you're doing it this way.

Mr. Dwayne Kuiper: Under the Assessment Act, the MPAC goes through and determines what properties can be exempted from tax, and there are certain requirements to meet to be exempted. In this particular instance, the Y does not fit within those categories. What the municipality is permitted to do is sort of a rebate program that can be effected, and it's a percentage of the tax that can be rebated back to the charity.

Mr. Bisson: What's the percentage?

Mr. Kuiper: It varies by municipality, but I believe in the region of Waterloo it's 50%. That is the extent to which you can get relief from tax, but with that rebate program, it's a continuing application cycle. You have to apply every year to get the rebate and then meet the criteria as it goes on.

Mr. Bisson: Just to refresh my memory, legislative counsel, when the Conservatives were in power, they made a change through the Ministry of Finance to allow Legions to be exempted, if I remember correctly. It doesn't expand beyond such organizations, just so I understand?

Mr. Armstrong: This is my understanding, sir, and so we're left with a few cases like this, where an organization that is already covered by private legislation and wants to make a change in its current position would need a private bill mechanism like this rather than, as has been mentioned, going back for a continuing out, as it were, on an annual basis.

Mr. Bisson: Just a final question: What organizations specifically do municipalities now have the right to exempt from municipal taxes? Is it only Legions? I'm trying to remember, because it actually was a good thing that was done by the Tories. Does it go beyond the Legions? That's what I'm trying to remember.

Mr. Armstrong: I honestly don't know, sir. Municipal government is not my area of drafting, and you can get a little focused on what you do. I could undertake to find the information for you.

Mr. Bisson: Could you just provide that to my office later, and maybe to the members of the committee; that would be the best way to do it. Passing this bill is not contingent on that; it's just for our information. Which organizations specifically are mentioned in the bill—I forget what year that was, 1997 or 1998—that basically allowed municipalities to exempt Legions from municipal taxes? I'm just wondering how far it goes. That's it.

The Vice-Chair: Any further comments or questions?

Mr. Kim Craitor (Niagara Falls): Yes. In answer to Gilles, I do remember that when I was at city council, there were two Legions that we exempted at the municipal level.

Just a very quick comment. Congratulations. I think this is excellent, and it's one of the things I supported as a municipal politician. We've done it for at least one or two organizations. At that time, we did it through my predecessor, Bart Maves. He brought at least one or two up here and was able to get those through the House. I'm quite familiar—I think we all are—with the organization and the good that it does. So I'm certainly going to support it.

The Vice-Chair: Are members ready to vote?

Shall section 1 carry? All in favour? Opposed, if any? That is carried.

Shall section 2 carry? All in favour? Opposed, if any? That is carried.

Shall section 3 carry? All in favour? Opposed, if any? That is carried.

Shall the preamble carry? All in favour? Opposed, if any? That is carried.

Shall the title carry? All in favour? Opposed? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

So that's it—oh, sorry, Mr. Bisson.

Mr. Bisson: I'd like to move the following motion:

I move that the committee recommend that the fees and the actual cost of printing at all stages be remitted on Bill Pr11, An Act respecting the Kitchener-Waterloo Young Men's Christian Association.

The Vice-Chair: Any comments?

Mrs. Van Bommel: First of all, what are the costs? I'd like to know how much we are discussing here.

The Clerk of the Committee (Ms Tonia Grannum): It's about $1,600. That's the filing fee of $150 plus the cost of printing at the three stages.

Mrs. Van Bommel: Who are we recommending this to?

Mr. Bisson: It's a decision of this committee.

The Clerk of the Committee: To the Legislature.

Mrs. Van Bommel: And the Legislature would have to vote on that?

The Clerk of the Committee: No, no.

Mr. Bisson: No, no. Here.

Mrs. Van Bommel: I'm still a rookie here, so I want a lesson in what is the process.

The Clerk of the Committee: It's a charitable organization and, as a charitable organization, they can request that their filing fees and their cost of printing be remitted, so we just move a motion to the House saying that's what we've recommended. It goes to the House in the report to the House. and then it's taken care of.

Mr. Bisson: They accept the report.

Mrs. Van Bommel: They accept that as well?

The Clerk of the Committee: Yes.

Mr. Bisson: It has been done from time to time.

The Vice-Chair: Any further questions or comments? If not, then, all in favour of the motion? Opposed, if any? That is carried.

Thank you all, and congratulations to the applicant and Mrs. Witmer.

Meeting adjourned.

The committee adjourned at 1113.

CONTENTS

Wednesday 9 March 2005

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Chair / Présidente
Ms. Marilyn Churley (Toronto–Danforth ND)

Vice-Chair / Vice-Président
Mr. Tony C. Wong (Markham L)

Mr. Gilles Bisson (Timmins–James Bay / Timmins–Baie James ND)
Ms. Marilyn Churley (Toronto–Danforth ND)
Mr. Kim Craitor (Niagara Falls L)
Mr. Kuldip Kular (Bramalea–Gore–Malton–Springdale L)
Mr. Gerry Martiniuk (Cambridge PC)
Mr. Bill Murdoch (Bruce–Grey–Owen Sound PC)
Mr. Khalil Ramal (London–Fanshawe L)
Mrs. Maria Van Bommel (Lambton–Kent–Middlesex L)
Mr. Tony C. Wong (Markham L)

Substitutions / Membres remplaçants
Mr. John Milloy (Kitchener Centre / Kitchener-Centre L)

Also taking part / Autres participants et participantes
Mrs. Elizabeth Witmer (Kitchener–Waterloo PC)

Clerk / Greffière
Ms. Tonia Grannum

Staff / Personnel
Mr. Ralph Armstrong, legislative counsel

T-10

ISSN 1180-4319

Legislative Assembly
of Ontario

First Session, 38th Parliament

Assemblée législative
de l'Ontario

Première session, 38e législature

Official Report of Debates (Hansard)

Wednesday 1 June 2005

Journal des débats (Hansard)

Mercredi 1er juin 2005

Standing committee on regulations and private bills

Comité permanent des règlements et des projets de loi d'intérêt privé

Draft Report
on Regulations

Rapport préliminaire sur
les règlements

Chair: Marilyn Churley
Clerk: Tonia Grannum

Présidente : Marilyn Churley
Greffière : Tonia Grannum

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Copies of Hansard

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

Exemplaires du Journal

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 1 June 2005

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 1er juin 2005

The committee met at 1001 in committee room 1.

DRAFT REPORT ON REGULATIONS

The Chair (Ms. Marilyn Churley): I'd like to call the standing committee on regulations and private bills to order. Welcome, everybody.

Today we are dealing with just one item, consideration of the draft report on regulations, and we have the report in front of us. I would welcome Mr. Edward Wells to the committee and ask you to just take us through this report briefly.

Mr. Edward Wells: If I may, Madam Chair, this report deals with regulations under acts of the Legislature. Of course, regulations help to flesh out the acts under which they are made and to implement them. Regulations are made by the Lieutenant Governor in Council, which is cabinet, by the minister, and other people too can make them, if they are delegated the authority.

This committee gives MPPs a chance to review that subordinate legislation and question it. It's your big opportunity to question all those regulations that are made under acts, but you're not allowed to review the policy behind them. The acts deal with the policy; the regulations are meant to implement the policy.

The report itself is a draft. There are some typos that need fixing, etc. But in essence, it starts with some general statistics dealing with a number of regulations that we've reviewed. I reviewed two years worth of regulations, which is not unheard of, depending on the workload. In fact, I was asked to come in and do it specifically on behalf of the research service because they needed somebody to help them stay current with other work that they do. I brought to your attention a couple of things which I'll get to in a moment.

You'll see that the report goes back to 1991. If you look on page 2, you'll see the regulation-making activity. It goes up and down, depending on whether or not there's an election year, whether new legislation has been passed which requires a number of regulations or not. It's somewhat difficult to say precisely how much you're going to get in any particular year. Years ago, it used to be about 500 a year. Now it's a little less than that in terms of the number of regulations made.

There are a couple of items which are highlighted in the report. One deals with the Drug Interchangeability and Dispensing Fee Act. I wrote a letter to the folks at the Ministry of Health and Long-Term Care because I was looking at the regulations in the big book—you can do that or you can look at them in e-Laws—and I saw the regulation dealing with drug interchangeability. A couple were made by the minister and another was made by the Lieutenant Governor in Council, and I thought, well, they must have a typo here. They've got the wrong person doing it. I was wrong. I inquired, and it turns out that because of various considerations which are outlined in the draft report, the minister will make regulations dealing with putting drugs on the list which are interchangeable, but in terms of being able to take a drug off the list, that's got to be cabinet. That I discovered in my query, because it really seemed to me that they are so similar that I just didn't understand what was going on there.

Another one I draw your attention to is under the Electricity Act. Again, I was reading the regulation and discovered that where a rather high-voltage line is left disused—let's put it that way—for "a prolonged period of time," you're supposed to do something about it, but there's no particular definition of what a prolonged period of time is or is not. I think probably when I was reading this somebody had just been electrocuted at some station, and I thought, hmm, I think I'll find out about this a bit more, especially since we have high-voltage lines coming into our cottages, our houses and everything else. Again, this is one where the regulation itself is made under delegated authority by the Electrical Safety Authority. They have agreed to review that definition as is outlined in the report here so that hopefully down the road in the not-too-distant future we'll have a better idea of what a "prolonged" period of disuse really is and make sure that where there is a high-voltage line which is not being used, it is taken out of service or suitably dealt with.

The last thing that I comment on is retrospectivity. The last draft report dealt with a number of regulations which purported to be retroactive, but there was no authority for it. You can't make a regulation that's retroactive without authority. You're just not supposed to do that. I think it's pretty obvious why. If it were a tax, you'd be royally incensed if in fact there was no

authority for making the regulation retroactive. The comment is that in fact I found nothing in the last couple of years where it was retrospective in effect and not authorized. I just wanted to bring that to your attention.

The rest of the report mainly is statistics on different acts and different ministries and the number of regulations under which they've acted. There are some editorial changes needed to ensure that in fact it makes some sense, because I was not present when this final draft went out and I couldn't read it because the fax sent to me was basically all blacked out. Now it's all fixed up and I can assure you it does make some sense, Madam Chair.

If you have any questions, I'll endeavour to answer them.

The Chair: Thank you very much, Mr. Wells. I'll take some questions and comments, and perhaps we can go through this page by page as well. Mr. Ramal.

Mr. Khalil Ramal (London–Fanshawe): I'm not sure on which page, but I heard you talking about the authority—

The Chair: Can you speak up a little bit, please?

Mr. Ramal: I heard you talking about authority, that you cannot change the regulations without authority. Whose authority are we talking about here?

Mr. Wells: Under the statute. In other words, the act will provide provisions that say you may make regulations to do X, Y, Z. If it's A and not X, Y, Z, then you don't have authority to make that regulation. We checked them all to see that that's there. Sometimes it's a bit iffy, but most of the time it's pretty straightforward, especially as we get to more modern regulations. The office of legislative counsel is being a little more careful and a little more organized about making sure that the authority is there before they permit a regulation to go forward.

1010

Mr. Ramal: But does the cabinet have the authority to change the regulation, or does the regulation have to be part of the act? We heard this committee or different committees talking about this many times: "It's not mentioned in the regulations or in the act, but the cabinet did this and this." Does the cabinet have the authority to change or to put aside any regulations, or to create different regulations?

Mr. Wells: Not normally. Normally, when cabinet makes a regulation, it follows the regulation.

Mr. Ramal: They don't create one, they just follow it.

Mr. Wells: You don't have to make a regulation in every case. It depends on what it is you wish to do. Where you do make a regulation, then you should follow it.

Mr. Tony C. Wong (Markham): I'm curious as to how we compare with other jurisdictions with respect to the regulation-making activity. Just looking at the chart, typically, it ranges from about 450 to 800 on an annual basis. As the chair of the newly formed small business agency, one of my goals is to try to cut down on the regulatory burden to small businesses. I know this is a very loose indicator—the number of regulations does not really reflect the overall regulatory burden—but how do we compare with other jurisdictions, especially Quebec and British Columbia?

Mr. Wells: I think I'd have to research that for you, which I'd undertake to do.

Mr. Wong: That would be great.

Mr. Wells: Certainly red tape, if we can use that older phrase, is an issue, or it was an issue, especially. Ministries in the past have been given marching orders to slow down on those regulations a bit, if possible.

Mr. Wong: I look forward to receiving your response.

The Chair: Can I ask you for a clarification? When you said ministries have been asked to slow down that whole exercise of cutting red tape, I wasn't sure what you meant by that.

Mr. Wells: Yes, that's what I meant: the exercise of cutting red tape.

Mr. Kuldip Kular (Bramalea–Gore–Malton–Springdale): Could you comment on how election timing changes regulation-making activity?

Mr. Wells: In my experience—I can only go by my number of years doing this—when there's an election forthcoming, often regulations are not made, because the ministry is waiting to see whether the government will be returned to power, whether somebody else will come in or, even if the government is returned to power, whether the same focus or thrust will be there. So often there are delays in making regulations.

Mr. Kular: Since the regulations don't matter—it's not the policy-making in this one; it's the already-made act that has to be regulated, right?

Mr. Wells: True.

Mr. Kular: So that, in my opinion, should not affect it through election time.

Mr. Wells: I can't disagree with you, but I am telling you that in fact it does happen. Things are just put on hold in the public service, to a degree, while the election takes place, and then the direction is given by the new government as to what the priorities are and where the thrust should be.

The Chair: Shall we just have a quick look through this page by page to see if anybody has any questions or specific comments? Shall we start at page 1, the introduction? Let's have a quick look at that. Now, you mentioned that there might be a few typos in here.

Mr. Wells: It's not typos per se, but in the schedules the headings need to be cleaned up, and there is one typo to fix.

The Chair: You'll point that out to us when we get to it?

Mr. Wells: I'll point that out to you, absolutely.

The Chair: Any comments or questions about page 1?

All right, let's flip to page 2. Any questions or comments? I'm sure everybody, of course, took a good look at this report before we came to committee this morning.

Page 3? I guess I have a question on page 3, if you will indulge me here. At the top it says, "Regulations should be expressed in precise and unambiguous language"; in other words, plain language. How's that

going? It's a constant problem even for legislators, let alone for the public, to understand regulations sometimes. Is there still a process in place on that?

Mr. Wells: Absolutely. They should be plain language. They should be understandable to the audience for whom they're intended. If you're dealing with some of the more esoteric, say electrical matters, where you've got formulae that are the length of the page, that doesn't impress me particularly, not being an engineer. But the people who have to deal with it, of course, know. It's one of those things which is always something to be striven for; it's not always achieved.

The Chair: Any other comments on that page?

Mr. Wong: Just a question on guideline number 2 as well. It's obvious that regulations should be in strict accord with the statute, but oftentimes that's difficult to do in a strict sense because obviously regulations expand, in some sense, upon the statute. As a lawyer by profession, I've come across situations when they do not strictly adhere to the technical language used in the statute. I guess that's happened in the past, Mr. Wells? Has it happened in the past, where there has been a challenge or dispute as to whether regulations were in strict accordance with the statute?

Mr. Wells: The question of whether or not a regulation is in strict accord with a statute is a matter of interpretation. Sometimes someone's interpretation will be, "Of course it's in strict accord with the statute." Another person looking at the very same regulation will say, "No it's not. It's gone beyond what the statute provides." There's that constant tension on occasion where there is a real dispute as to what the regulation encompasses, what it doesn't encompass, whether or not there is authority, or whether it follows the legislation. I certainly have seen that over the years. Most of the time, nothing has turned on it in the sense of going to court over it, although I've been in court over regulations, in another lifetime. Let me say that it is a matter of interpretation.

Mr. Wong: I take it that the government of Ontario has not lost in any court challenges in the last few years, with respect to this aspect?

Mr. Wells: I'd have to look that up for you.

The Chair: That's the second follow-up that they'll make a note of. Any other questions on page 3?

Let's move on to page 4. I'll just give people a minute to take a look.

We'll move on to page 5, appendix A.

We'll move on to page 6, appendix B.

We'll move on to page 7, appendix C, which, of course, is just the list.

We'll move on to pages 8, 9, 10, 11, 12, 13 and the final page, 14. Any comments or questions on any of those? No? OK.

Mr. Wells, you were going to tell us about a small change in a heading and a typo.

Mr. Wells: On page 5, the reference to section 12(2) of the Regulations Act should read, "Every regulation stands permanently referred to the standing committee for the purposes of subsection (3)."

The Chair: So there should be a "(3)" added there. Anything else?

Mr. Wells: Not really. When I first saw the shaded parts of appendices C and D, they were a bit off with respect to the lists etc., but they're fine now.

The Chair: Good. Mr. Wong?

Mr. Wong: I move that the draft report, as amended, be adopted and reported to the House.

The Chair: Is there a seconder for that? Thank you, Mrs. Van Bommel.

All in favour? Opposed? It carries.

We're done. The committee stands adjourned until 10 a.m. on Wednesday, June 8, 2005. I understand that we have several items of substance for that meeting, so I look forward to seeing you there. I will be reporting this in the House after it's finalized. Thank you all very much.

The committee adjourned at 1022.

CONTENTS

Wednesday 1 June 2005

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Chair / Présidente
Ms. Marilyn Churley (Toronto–Danforth ND)

Vice-Chair / Vice-Président
Mr. Tony C. Wong (Markham L)

Mr. Gilles Bisson (Timmins–James Bay / Timmins–Baie James ND)
Ms. Marilyn Churley (Toronto–Danforth ND)
Mr. Kim Craitor (Niagara Falls L)
Mr. Kuldip Kular (Bramalea–Gore–Malton–Springdale L)
Mr. Gerry Martiniuk (Cambridge PC)
Mr. Bill Murdoch (Bruce–Grey–Owen Sound PC)
Mr. Khalil Ramal (London–Fanshawe L)
Mrs. Maria Van Bommel (Lambton–Kent–Middlesex L)
Mr. Tony C. Wong (Markham L)

Substitutions / Membres remplaçants
Mr. Michael Prue (Beaches–East York / Beaches–York-Est ND)

Clerk / Greffière
Ms. Tonia Grannum

Staff / Personnel
Mr. Edward Wells, counsel and research officer,
Research and Information Services

T-11

ISSN 1180-4319

Legislative Assembly
of Ontario

First Session, 38th Parliament

Assemblée législative
de l'Ontario

Première session, 38e législature

Official Report of Debates (Hansard)

Wednesday 8 June 2005

Standing committee on regulations and private bills

Journal des débats (Hansard)

Mercredi 8 juin 2005

Comité permanent des règlements et des projets de loi d'intérêt privé

Chair: Marilyn Churley
Clerk: Tonia Grannum

Présidente : Marilyn Churley
Greffière : Tonia Grannum

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Copies of Hansard

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

Exemplaires du Journal

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 8 June 2005

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 8 juin 2005

The committee met at 1002 in committee room 1.

ACTON DISPOSAL SERVICES LIMITED ACT, 2005

Consideration of Bill Pr9, An Act to revive Acton Disposal Services Limited.

The Chair (Ms. Marilyn Churley): I'm calling the meeting of the standing committee on regulations and private bills to order. Good morning, everybody. We're going to start with Bill Pr9, An Act to revive Acton Disposal Services Limited.

Mr. Racco, I believe you're going to introduce the parties.

Mr. Mario G. Racco (Thornhill): Good morning. I would like to briefly introduce to you Bill Pr9, An Act to revive Acton Disposal Services Limited. With me today is Jeanne McCauley and Frank Sgro, their solicitor, who is representing Mary Petriglia, president of Acton Disposal Services Ltd.

We ask the committee today to revive Acton Disposal Services Ltd. The company was dissolved under the Business Corporations Act on July 18, 2001, for failure to comply with subsection 115(2) of the act. Mary Petriglia was the sole director and shareholder of the corporation when this took place, and maintains that this default was done in error and that the business has been carried on in the name of the corporation despite dissolution.

I thank you, and if there are any questions, Mr. Sgro will be able to answer them.

The Chair: Thank you very much, Mr. Racco. Could I ask the applicant to make some comments, and please say your name for the record.

Mr. Frank Sgro: My name is Frank Sgro. I'm here on behalf of Mary Petriglia and Acton Disposal.

There was a change in directors in 1999. The matter was handled by the accountant for the corporation at the time, who filed form 1 under the Business Corporations Act. One of the requirements of a corporation under the Business Corporations Act is that it have a board of directors. That's under section 115 of the act. Unfortunately, form 1 did not disclose that Mary Petriglia was a director; in fact, it didn't disclose that there were any directors. As a result, a notice was sent to the corporation requesting information as to the board of directors. Through inadvertence, there was no response to that request, and ultimately the company was cancelled for cause, for not disclosing a board of directors. As a result of that, we're here requesting that the company be revived. The company has carried on business continuously in the ordinary course. It has assets and, as a necessity, it needs to be revived.

I'm not sure if there are any other questions.

The Chair: Thank you very much. Do you have any comments?

Ms. Jeanne McCauley: No.

The Chair: OK. Are there any questions or comments from the members?

Interjection.

The Chair: I'm being coached here. Give me a moment.

Are there any interested parties here, and if so, would you like to come forward?

Parliamentary assistant, do you have any comments from the government on this bill?

Mrs. Maria Van Bommel (Lambton–Kent–Middlesex): We have no problems with this bill.

The Chair: OK. Now I get to ask if there are any comments or questions from the members. Are the members ready to vote on this matter?

Let's look at section 1. Shall section 1 carry? All in favour? Opposed? Carried.

Shall section 2 carry? All in favour? Opposed? Carried. Too bad things don't go this smoothly in the House.

Shall section 3 carry? All in favour? Opposed? Carried.

Shall the preamble carry? All in favour? Carried.

Shall the title carry? All in favour? Opposed? Carried.

Shall the bill carry? All in favour? Opposed? Carried.

Shall I report the bill to the House? All in favour? Opposed? Carried.

Thank you very much.

Mr. Sgro: Thank you very much.

TYNDALE UNIVERSITY COLLEGE & SEMINARY ACT, 2005

Consideration of Bill Pr12, An Act respecting Tyndale University College & Seminary.

The Chair: The second item on the agenda is Bill Pr12, An Act respecting Tyndale University College & Seminary.

Mr. Martiniuk, you are going to introduce this on behalf of Mr. Klees?

Mr. Gerry Martiniuk (Cambridge): Yes, thank you very much, Chair. I extend my colleague Mr. Frank Klees's apology to the committee. Due to a funeral he is attending this morning, he cannot be here to introduce the principals of the Tyndale University College and Seminary, and I therefore have the pleasure. I wish to present to the committee Mr. Earl Davey, provost; Mr. Winston Ling, vice-president, finance and administration; and Mr. David G. Fuller, solicitor.

The Chair: Thank you very much. Could I ask the applicants to introduce yourselves and then, if you have any comments, please make them.

Mr. David Fuller: My name is David G. Fuller. I am the solicitor for Tyndale University.

Mr. Winston Ling: I'm Winston Ling, the vice-president of finance and administration.

Dr. Earl Davey: Earl Davey, provost.

The Chair: Go ahead.

Mr. Fuller: In terms of comments, the bill is straightforward. It's intended to incorporate, at the request of the ministry, in the legislation governing Tyndale, student protection provisions for the general and honours bachelor of arts programs in humanities, social science and business studies, and other new degree programs similar to those set out for private institutions under Ontario regulation 279, passed in 2002.

Boiling that down, what it means is that we are putting in place, in the legislation that governs us, security with respect to tuition fees that have been paid but not yet earned by the university and security with respect to access for transcripts of the students in these programs. This is a standard provision that the ministry has asked us to do.

The Chair: Are there any other comments from the applicants? No.

Are there any other interested parties here who would like to speak to this? OK.

Parliamentary assistant, are there any comments from the government?

1010

Mrs. Van Bommel: The Minister of Training, Colleges and Universities, as was stated, has requested this, so she is certainly in support of this, and as a government we have no objections.

The Chair: OK. Thank you. Are there any questions or comments from the committee members to either the applicant or the parliamentary assistant on this matter?

Are the members ready to vote?

Interjection.

The Chair: Did you have a—

Mr. Bill Murdoch (Bruce–Grey–Owen Sound): I have another matter with this one, but let's do the first. This is just to waive the fees.

The Chair: All right. So now we'll vote on this bill.

Shall section 1 carry? All in favour? Opposed? Carried.

Shall section 2 carry? All in favour? Opposed? Carried.

Shall section 3 carry? All in favour? Opposed? Carried.

Shall the preamble carry? All in favour? Opposed? Carried.

Shall the title carry? All in favour? Opposed? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? All in favour? Opposed? Carried.

All right, then. Thank you very much.

Mr. Murdoch: Madam Chair, I have a motion here that I'd like to put.

The Chair: Mr. Murdoch, go ahead.

Mr. Murdoch: I move that the committee recommend that the fees and the actual costs of printing at all stages be remitted on Bill Pr12, An Act respecting Tyndale University College & Seminary.

The Chair: Any comments or questions?

Mrs. Van Bommel: Can I ask how much all that would amount to?

Mr. Murdoch: Because they won't know.

The Clerk of the Committee (Ms. Tonia Grannum): The fees are the $150 filing fee, and the printing costs are about $1,100 to $1,500. If it's a charitable organization, the committee usually can request that.

Mrs. Van Bommel: I have no objections.

The Chair: Any other comments on this amendment?

All in favour? Opposed? It's carried.

Congratulations, Mr. Murdoch. You won one.

Thank you very much, gentlemen.

INSTITUTE FOR CHRISTIAN STUDIES ACT, 2005

Consideration of Bill Pr14, An Act respecting the Institute for Christian Studies.

The Chair: We're ready to move on to the next item, which is Bill Pr14, An Act respecting the Institute for Christian Studies.

Mr. Marchese, you are the sponsor of this bill. Would you like to take your seat and introduce it?

Mr. Rosario Marchese (Trinity–Spadina): I'd like to move Bill Pr14, An Act respecting the Institute for Christian Studies.

I have with me Harry Fernhout and Ansley Tucker. They will introduce themselves in a moment.

Just to read the preamble: "The Institute for Christian Studies has applied for special legislation to amend its authority to grant degrees and to change the structure and powers of its board of trustees and its senate. The applicant represents that it was incorporated by the Institute for Christian Studies Act, 1983.

"It is appropriate to grant the application."

I just want to say, Madam Chair, and to the Liberal members, this bill has been languishing in these halls in this assembly for a long, long time. It's almost em-

barrassing to come and reintroduce it and bring these people back. I know that this bill will be passed in this committee—that's not the problem—but it's important for the parliamentary assistant and Liberal members to just press the government to get these things passed, so that we don't waste their time and my time and our time having to deal with bills that we all agree to.

Having said that, we'll just have Mr. Fernhout and then possibly Ms. Tucker to speak.

The Chair: Mr. Fernhout, would you like to go ahead, and state your name for the record, please.

Dr. Harry Fernhout: My name is Harry Fernhout. I serve as president of the Institute for Christian Studies.

Ms. Ansley Tucker: Hi. I'm Ansley Tucker. I'm the associate academic dean.

The Chair: Go ahead.

Dr. Fernhout: As Mr. Marchese has said, the Institute for Christian Studies has been operating under the Institute for Christian Studies Act since 1983. That act authorized us to grant the degree of master of philosophical foundations—I believe one of a kind in the world—because, under government policy at the time, we were not able to grant a standard MA degree or get access to a standard MA degree, and since we were not a theological college, we compromised with government at the time on "master of philosophical foundations."

The act also authorized us to grant a program leading to the PhD degree, provided that the degree was granted by another institution that had ministerial consent. Since 1983, we've haven't been doing it. The Vrije Universiteit in Amsterdam applied for ministerial consent on our behalf and we had an arrangement with them whereby our students had access to the PhD granted by that institution. In 1992, the degree of master of worldview studies was added to our charter.

The Post-secondary Education Choice and Excellence Act, 2000, changed government policy in this area and it became possible for the institute to apply for standard degree nomenclature. We submitted that application in 2002. In early 2003, the minister indicated that a condition of support for those changes to our legislation would be a favourable review by the Postsecondary Education Quality Assessment Board. We subsequently submitted an application to PEQAB and the board made a recommendation to the minister that our degree changes be approved in the spring of last year. The minister granted consent to those changes in December.

Since then, we've met a number of other conditions of the minister in terms of security and so on and so forth. I believe we've now met all the ministry's conditions and have applied for this legislation.

The Chair: Thank you very much. Did you have any comments?

Ms. Tucker: No, that's fine, thank you.

The Chair: Are there any other interested parties who would like to come forward and speak to this? OK.

Parliamentary assistant, do you have comments from the government?

Mrs. Van Bommel: Thank you for coming in and for your thorough explanation. We have a letter of support for this private member's bill from the Minister of Training, Colleges and Universities, the Honourable Mary Anne Chambers. We have no objections to this.

The Chair: Members of the committee, any questions or comments?

Mr. Martiniuk: Could I just refer to paragraph 6 of subsection 6.1(1). There seems to be an additional power or right to grant diplomas and certificates, which I assume did not exist prior to this new act. I was just curious as to the reason, considering that you're granting masters and PhDs, why the power to grant diplomas and certificates would be significant.

Dr. Fernhout: That is in fact a provision that was in the original act of 1983. A diploma or a certificate is a way of recognizing, for example, the work of someone who isn't able to fulfill all the requirements for the degree, but who yet needs some non-degree form of recognition for the work they've done.

The Chair: Any other questions or comments? OK.

Are the members ready to vote? All right.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Mr. Marchese: If I can, given that the precedent has been set today by Mr. Murdoch, I'd like to move the same motion that he did. That would be, I move that the committee recommend that the fees and the actual cost of printing at all stages be remitted on Bill Pr14, An Act respecting the Institute for Christian Studies.

1020

The Chair: I understand that because you're sponsoring it, you need to get another member to move that motion for you.

Mr. Gilles Bisson (Timmins–James Bay): I so move.

The Chair: OK.

Mr. Bisson: I move that the committee recommend that the fees and the actual cost of printing at all stages be remitted on Bill Pr14, An Act respecting the Institute for Christian Studies.

The Chair: Are we ready to vote on the amendment?

Interjections.

The Chair: All right, members, come to order. Are we ready to vote on the motion?

All in favour of the motion? Opposed? Carried.

Thank you very much.

TORONTO ATMOSPHERIC FUND ACT, 2005

Consideration of Bill Pr15, An Act respecting the Toronto Atmospheric Fund and the Clean Air Partnership

(formerly known as the Toronto Atmospheric Fund Foundation).

The Chair: Finally on the agenda today, we're dealing with Bill Pr15, An Act respecting the Toronto Atmospheric Fund and the Clean Air Partnership (formerly known as the Toronto Atmospheric Fund Foundation). Would the interested parties come forward, please.

Mr. Duguid, I believe you're sponsoring this bill.

Mr. Brad Duguid (Scarborough Centre): Thank you, Madam Chair. I am pleased to sponsor Bill Pr15, An Act respecting the Toronto Atmospheric Fund and the Clean Air Partnership (formerly known as the Toronto Atmospheric Fund Foundation).

Let me begin by saying I will not be moving that we eat the costs for the city of Toronto on this. Although their financial difficulties may be a little worse than some of the organizations that have come before us today, we're not going to be that generous.

I want to welcome Councillor David Soknacki. Councillor Soknacki is a city councillor from Scarborough. He's chair of the budget advisory committee for the city and he's chair of the Toronto Atmospheric Fund. For the committee's information, Councillor Soknacki was appointed to this committee. It was one of the first committees he was appointed to when he first got on to Toronto council. I think he was appointed to it with the expectation he would be able to take a look at what's going on and make sure that things are being dealt with well on this very important fund.

It's a fund that provides grants to organizations and projects that help clean the air and the smog in Toronto—on a day like this, it is very appropriate to talk about it—and deal with global warming and those kinds of things. He has become very passionate about this particular fund over the years, and hence he's now chair of it.

One of things they're trying to do is bring this fund up to date, so they're changing the name to more appropriately reflect what it does. This bill will give the city a little more flexibility in terms of how it organizes and manages the fund, and a little bit better ability to manage the fund. I don't want to go into any more detail than that or to take up any more of the time than we need to.

I'd like to introduce Councillor Soknacki and his staff team and thank them for being here.

The Chair: Thank you very much, Mr. Duguid.

Welcome, Councillor and staff. Could you, first of all, introduce yourselves for the record?

Mr. David Soknacki: I'm David Soknacki, councillor, Scarborough East.

Ms. Lorraine Searles-Kelly: I'm Lorraine Searles-Kelly, a solicitor with the city of Toronto.

Mr. Clifford Goldfarb: I'm Cliff Goldfarb. I'm the lawyer for the Toronto Atmospheric Fund and the fund foundation.

Mr. Martin Willschick: My name is Martin Willschick. I'm manager of treasury services in the finance department of the city of Toronto.

The Chair: Thank you all for coming. Councillor, would you like to make some comments?

Mr. Soknacki: I would first like to thank Brad for his kind comments, and also comment, Madam Chair, that you run a very efficient committee. I wish that the budget committee would run half as quickly as this.

I would also like to respond to Member Duguid's comments with respect to the funds for this, because I think that with the new powers proposed in the private member's bill here, we will certainly be in a position to pay for this—

Mr Bisson: Private bill.

Mr. Soknacki: Private bill, I'm sorry. We'll be able to pay for this from the increased revenues that we'll be able to earn as a prudent investor.

I'm here on behalf of the TAF board to express support for the application. We established the Toronto Atmospheric Fund in the city of Toronto in 1991 to finance local initiatives to reduce greenhouse gas emissions and improve air quality.

Members of committee, I think it's also appropriate to acknowledge the role played by the Chair of this committee in the early days back on Toronto city council. Thank you very much for that way, way back.

The Chair: It's my baby.

Mr. Soknacki: Toronto city council approved, back in 1999 and again in May 2000, an application to the Legislature for amendments to the TAF Act of 1992, contained in the submission, to enable TAF to invest its funds in the manner set out in the new Trustee Act.

Council in September 2003 approved further amendments to the act with respect to certain governance matters. This matter has been to council a number of times. It's been through the committee process and has the strong support of council, the mayor and, of course, staff and TAF itself.

The amendments being proposed will enable TAF to increase the total return on its $26-million endowment through prudent diversification of its investments. Increasing its total return means that TAF will be able to further its objectives by providing more funding each year to projects in Toronto that reduce greenhouse gas emissions and help clean the air. This includes projects undertaken by the city of Toronto itself, as supported by TAF, to reduce corporate energy costs, which total over $100 million annually.

Cliff Goldfarb, city solicitor, is here, as are city staff. They're able to provide a detailed review of the significance of the proposed legislation. They have, Madam Chair and members of the committee, a number of pages here—I don't know if it's necessary—but they're certainly here to present, if you wish.

The Chair: In the interest of the efficiency that you just lauded us for, I would ask if the committee members would require or request the staff to go through the information they have.

Mr. Bisson: I want to hear from the PA.

The Chair: You want to hear from the PA. OK, then, let's hear from the PA. Do you have any comments on this?

Mrs. Van Bommel: Just one question: In being able to use the prudent investor standard, what difference in revenues would you anticipate?

Mr. Willschick: We've looked at various scenarios, and it looks like we could at least increase our rate of return by 1% on an annual basis over what it currently is—1% to even 1.5%—so that would be at least $250,000 to $400,000 a year in increased investment income.

The Chair: Are there any comments, by the way, or any other interested parties here who wish to speak to this? No, OK. Any other comments or questions from the members?

Are we ready to vote then? There are a number of sections, so we'll go through it quickly.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall section 6 carry? Carried.

Shall section 7 carry? Carried.

Shall section 8 carry? Carried.

Shall section 9 carry? Carried.

This is like a tongue-twister.

Shall section 10 carry? Carried.

Shall section 11 carry? Carried.

Shall section 12 carry? Carried.

Shall section 13 carry? Carried.

I think I'm going to—I was just looking at the clerk to see if I can collapse all of these, because we have ,all in all—

Interjection.

The Chair: Yes, where did I end up?

Shall sections 12 through 31 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Thank you all very much. That's the end of the agenda, so I am now adjourning the meeting.

The committee adjourned at 1029.

CONTENTS

Wednesday 8 June 2005

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Chair / Présidente
Ms. Marilyn Churley (Toronto–Danforth ND)

Vice-Chair / Vice-Président
Mr. Tony C. Wong (Markham L)

Mr. Gilles Bisson (Timmins–James Bay / Timmins–Baie James ND)
Ms. Marilyn Churley (Toronto–Danforth ND)
Mr. Kim Craitor (Niagara Falls L)
Mr. Kuldip Kular (Bramalea–Gore–Malton–Springdale L)
Mr. Gerry Martiniuk (Cambridge PC)
Mr. Bill Murdoch (Bruce–Grey–Owen Sound PC)
Mr. Khalil Ramal (London–Fanshawe L)
Mrs. Maria Van Bommel (Lambton–Kent–Middlesex L)
Mr. Tony C. Wong (Markham L)

Substitutions / Membres remplaçants
Mr. Vic Dhillon (Brampton West–Mississauga / Brampton-Ouest–Mississauga L)
Mr. Brad Duguid (Scarborough Centre / Scarborough-Centre L)

Also taking part / Autres participants et participantes
Mr. Mario G. Racco (Thornhill L)
Mr. Rosario Marchese (Trinity–Spadina ND)

Clerk / Greffière
Ms. Tonia Grannum

Staff / Personnel
Ms. Susan Klein, legislative counsel

T-12

ISSN 1180-4319

Legislative Assembly
of Ontario

First Session, 38th Parliament

Assemblée législative
de l'Ontario

Première session, 38e législature

Official Report of Debates (Hansard)

Monday 19 September 2005

Journal des débats (Hansard)

Lundi 19 septembre 2005

Standing committee on regulations and private bills

Comité permanent des règlements et des projets de loi d'intérêt privé

Chair: Marilyn Churley
Clerk: Tonia Grannum

Présidente : Marilyn Churley
Greffière : Tonia Grannum

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Copies of Hansard

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

Exemplaires du Journal

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Monday 19 September 2005

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Lundi 19 septembre 2005

The committee met at 0938 in committee room 1.

SUBCOMMITTEE REPORT

The Vice-Chair (Mr. Tony C. Wong): Good morning, ladies and gentlemen. This is the standing committee on regulations and private bills. I call the meeting to order. This is on Bill 137, An Act to amend the Income Tax Act to provide for a tax credit for expenses incurred in using public transit.

Item 1 is the report of the subcommittee on committee business.

Mrs. Maria Van Bommel (Lambton–Kent–Middlesex): I'm just going to present the report as it is in front of you.

Your subcommittee met on Wednesday, August 10, 2005, to consider the method of proceeding on the following private members' public bills;

Bill 137, An Act to amend the Income Tax Act to provide for a tax credit for expenses incurred in using public transit (Mr. O'Toole),

Bill 58, An Act to amend the Safe Streets Act, 1999 and the Highway Traffic Act to recognize the fundraising activities of legitimate charities and non-profit organizations (Mr. Lalonde),

Bill 153, An Act in memory of Jay Lawrence and Bart Mackey to amend the Highway Traffic Act (Mr. Rinaldi),

Bill 209, An Act to amend the Highway Traffic Act with respect to the suspension of drivers' licences (Mr. Zimmer),

Bill 7, An Act to authorize a group of manufacturers of Ontario wines to sell Vintners Quality Alliance wines, (Mr. Hudak),

Bill 101, An Act to amend the Health Insurance Act, (Mr. Baird),

Bill 123, An Act to require that meetings of provincial and municipal boards, commissions and other public bodies be open to the public, (Ms. Di Cocco), and recommends the following:

(1) That the committee meet for the purpose of public hearings during the week of September 19, 2005, and the week of September 26, 2005, in accordance with the agreed-upon whips' schedule.

(2) That the committee meet in Toronto at Queen's Park for the consideration of Bills 137, 58, 153, 209, 101, and 123.

(3) That the committee meet half day in Niagara and half day in Toronto for consideration of Bill 7.

(4) That the committee meet from 9:30 a.m. to 6 p.m., subject to change and witness demand.

(5) That an advertisement be placed in all English and French weeklies and in the English dailies and one French daily for one day, September 6, 2005, and that the advertisement also be placed on the OntParl channel and the Legislative Assembly Web site.

(6) That the deadline for those who wish to make oral presentations on any of the private members' public bills be 5 p.m. on September 12, 2005.

(7) That all groups be offered between 15 to 20 minutes in which to make their presentations and individuals be offered between 10 to 15 minutes in which to make their presentations, and that the clerk in consultation with the Chair be authorized to determine the amount of time offered, based on witness demand.

(8) That the clerk in consultation with the Chair be authorized to schedule all witnesses.

(9) That the sponsors of any of the private members' public bills be allowed to make a 15-minute opening statement at the outset of the public hearings, followed by a five-minute question-and-comment period from each of the government, opposition and third party critics.

(10) That the deadline for written submissions on all private members' public bills be 5 p.m. on September 29, 2005.

(11) That the research officer provide the committee with background information on each of the private members' public bills by 5 p.m. on September 15, 2005.

(12) That the clerk of the committee in consultation with the Chair be authorized, prior to the passage of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Vice-Chair: Thank you very much. I would now like to invite the sponsor of the bill—sorry, we need to have a vote on this. All in favour of this? Opposed, if any? That is carried.

INCOME TAX AMENDMENT ACT (PUBLIC TRANSIT EXPENSE TAX CREDIT), 2005

LOI DE 2005 MODIFIANT LA LOI DE L'IMPÔT SUR LE REVENU (CRÉDIT D'IMPÔT POUR DÉPENSES DE TRANSPORTS EN COMMUN)

Consideration of Bill 137, An Act to amend the Income Tax Act to provide for a tax credit for expenses incurred in using public transit / Projet de loi 137, Loi modifiant la Loi de l'impôt sur le revenu afin de prévoir un crédit d'impôt pour les dépenses engagées au titre des transports en commun.

The Vice-Chair: Now I would like to invite the sponsor of the bill, Mr. O'Toole, to speak.

Mr. John O'Toole (Durham): Thank you very much, Chair. I also thank the clerk for making sure that I am properly subbed on to the committee. I'd also like to thank the government for recognizing that there is merit in this private member's bill, and it's an honour to be able to set aside time to debate this in the public forum. I think it's a progressive, pro-democracy kind of thing when the government allows an opposition member—and I might say as well, Mrs. Van Bommel, that I'm now the transportation critic, so I have a genuine interest as a person who commutes each day to Queen's Park.

Along with many of my constituents, I'm burdened with worries about the regularity and dependability of transit being there when and where you need it, and in an affordable manner. That very clearly leads to Bill 137. Bill 137, which was introduced October 28, 2004, was popularly received by debate on second reading. From that, it precipitated into this hearing today.

I would say from the outset that the bill is a framework, a piece of information to encourage the government to take the initiative themselves in a more well-developed legislative form. If this is a catalyst for that steering process, that would be a worthwhile outcome from today.

I probably will use all my time to speak, because there's so much to be said on trying to encourage people to get out of their cars and use transit. That's really what this bill is about. How we get there—you're probably going to talk in your response about the $100 million or $300 million that you're going to contribute in the form of gas tax. While in itself it's a strong idea and strongly encouraged by the Federation of Canadian Municipalities as well as AMO and other organizations, it's still not a fair tax technically, or tax relief, if you will, or redirection of tax, because it really does favour those municipalities that have transit today.

Much of my riding of Durham, which consists of the municipality of Clarington, a portion of Oshawa, and most or all of Scugog township, is, I would say, about 50% rural, 50% urban, and to a very large extent does not have a very well-developed transit system except in Ajax, Pickering, Whitby, Oshawa, and to some extent Clarington.

It was the previous government, in their work done on this important initiative—some of you may want to take a look at this document. It's called Shape the Future: Central Ontario Smart Growth Panel Final Report, issued in April 2003. In the transit section, they did make several recommendations; in fact, it's a worthwhile document. I'm looking at that document now, on page 22 and going forward a few pages, under the term "Unlocking Gridlock." We will hear the term "gridlock" repeatedly. It's something that I suffer and that most of the people commuting to Toronto hear about and live every day. Making better use of transit infrastructure could be part of the solution.

There were four headings in that section under gridlock: transportation demand management; investment in transit; transit-supportive land-use planning; and the number four principle, an integrated transportation network. So all of the initiatives, whether it's the gas tax or this initiative here, are really to help to develop the infrastructure, both capital and operating, necessary to have a well-developed transit system serving probably in the neighbourhood of five million to six million people in Ontario who use, or should use, transit on a regular basis. If they did, they would probably also be solving another problem, that of building more roads and improving the roads. It's probably not sustainable without building more roads, even beyond the 407 corridor that's currently under construction or under consideration.

One of the things that this bill tries to do is to incent the user directly. One of the issues, on speaking to the Canadian Urban Transit Association, with whom I have spoken on a number of occasions, and others—I have sent this bill and continue the dialogue. It's on my Web site. As well, I've sent it to all of the regions and other municipal leaders through AMO and tried to get their feedback. Indeed, I will cite some of the feedback that I have received. But the intent there is to find a way, a catalyst, if you will, to encourage the transit user to take the first step. It's like quitting smoking, in a way. You've got to take the first step. You've got to have a reason, some sort of support, encouragement of some sort directly to the user. That's fundamental.

The mechanics of doing that, according to the Canadian Urban Transit Association and others, are somewhat problematic, because the bill itself—I think it's under section 2—talks about having a receiptable expense. That receiptable expense is going to be part of the administrative problem. There's a way of coming around it, and I would say the most logical way to do it would be if employers were able to provide a mechanism—a token, a voucher or some method through the employer-employee relationship—as a non-taxable benefit. All of the benefits, whether it's a car allowance or those things, are called taxable benefits. In this case, I wouldn't like to see that benefit clawed back in any way. In fact, that's a federal issue under tax rules, where anything that's deemed to be a benefit is taxable as such. I put on the record today that that is something the federal government should look at, because it is a very small way—quite obviously, I have some examples here

as I go through this—that would be a catalyst, as I referred to earlier, the point of change in someone's behaviour. That's what you have to do here: You have to incent directly the users of transit. That's the whole key to this thing.

0950

The second way would be to only incent people or give tax credit value to someone who bought a monthly pass. It would take less administratively to issue them a receipt upon them paying the $40 or $50 for the monthly pass. That receipt would then be filed with your income tax.

In the cases I'm establishing here, the ideal case would be where the employer provided an incentive. If you look at that in a more broadly based argument, it also ties into smart growth, because if employers are providing today a parking spot, they in fact are providing you a benefit for driving your car. So if we were saying that you provided them another kind of incentive, that parking lot, which is a poor use of space, could in fact be considered their savings, the corporate savings—or the small company that has a small tool-and-die shop or a computer shop or whatever, providing parking. In fact, it would help the whole small commercial and business sector if transit was more conveniently arranged, and that only happens when you have the density. Transit, for the most part, works well when there's density. You have to have ridership to pay a portion of the fare box, which covers only a portion of the total operating costs of a business. I would see businesses being able to work out a mechanism where they provided a token, an internally refundable system where they turn in a receipt to their employer to show that they actually used it, as opposed to giving them money, which won't get them out of the car. If you gave them $100 a month to use transit, what evidence do we have that they're actually going to use transit?

Don't let those mechanics become a stumbling block. It's only an idea. In fact, I want to give the credit for the idea to Audrey Lemieux, who was one of my legislative interns who worked for me. I have a great deal of respect for the legislative internship program. These young people have a lot of great ideas, and it's our job to work with them.

Also, I want to give credit to the commuters from Durham. I live on the outskirts of Clarington, in the country, with a well and a septic system. I couldn't possibly use transit without having a car. I have to get in the car and go to the transit. Usually there's too much congestion at the parking lot, so I keep tracking it down from Clarington, which has a spot where you can take a bus, to Oshawa, where they have some parking restrictions at the GO station, and then the next one is Whitby and then it's Pickering and Ajax. You really have to chase down the 401 to find out where you're liable to get the optimum parking. So it's not pre-empting the automobile. The automobile has to be integrated somehow into the public transit mode.

I find the whole topic absolutely central to solving several problems. We have an obesity problem in Ontario and probably in Canada and North America. Getting people active, getting them out of their car, is absolutely important.

One point I keep repeating is that critical moment, that focused moment where they actually make the decision, "I'm going to do it." How do you get to that? I would suggest ideas such as transit system operators, mostly municipalities, offering a free month's pass. Get them to make that first decision. Make it more convenient for the schedules.

There is a lot here that's being done by this government and was done by the previous government about integrating transit. I think York region and Durham region are probably far advanced in integrating their transit systems so that it's a seamless system from Clarington right through to Union Station.

I would also suggest investments or initiatives in what I would call smart transit, which is giving people a card, more or less like the transponder on the 407, where you use it and you're billed. So it's transparent, and that bill would then become the receipting mechanism.

In talking to some of the experts in the area, even going back to the urban transit association—I think they're probably the leaders in trying to find the right tools and the right policies to get the driver to make that first decision. You've got high-occupancy lanes and you've got a lot of ideas out there, but this would be a very good first signal. If nothing came from this other than just a furtherance of commitment by the Ministry of Transportation, I would believe that together we will have made a significant contribution to the problems inherent with gridlock, which would include environmental concerns, use of infrastructure, encouraging people to take a more active role in their daily trips by using public transit.

I just want to put on the record the work that's been done by a very good friend of mine, Rein Harmatare, who has for many years worked in the financial sector. I think he was the editor of the Financial Post. He's a good friend of mine. He said, "Here are some examples, John, of what it would mean to someone, a hard-working Ontario citizen, a young person, a middle-aged person, a person of fixed income." Let's take an income of $30,000 per year and that person made five trips per day. The total cost for a trip from where I live is about $14.70 per day for a round trip from Oshawa to Union Station. If you want to get anywhere in Toronto, you need to buy tokens; you can buy 10 tokens for about $20. So the average trip per day is in the order of $16 to $18 per day roughly. You'd pay that much for parking maybe for an hour.

You've got to educate people by directly incenting them and making it more convenient, providing much more of those digital display or information boards and things like that for connecting trips to different points like the Eaton Centre, or the University of Toronto for students would be helpful, or other destinations. That first trip is so critical. You almost have to take them by the hand as you would with a car and a map. You can

easily take control of it yourself, but just to put that in mind.

If you annualize that, the cost to the person per year would roughly be in the order of about $4,400. That's after-tax income. That's a considerable expense for someone making $30,000, whether they're a student or a senior. You'd be helping them in more than financial ways, by taking an active role in environmental stewardship and responsibility as well as their own health. That little two-minute walk to the next connecting link would be exercise they otherwise wouldn't have gotten while they sat in their car in gridlock for two hours. That's what it took me this morning; I drove because I have another engagement today. That's the problem.

The Vice-Chair: Mr. O'Toole, your 15 minutes is up. Please wrap up.

Mr. O'Toole: I'd ask for unanimous consent for about three more minutes, since the day is going to—

The Vice-Chair: Do we have unanimous consent to give Mr. O'Toole another three minutes?

Mr. O'Toole: Thank you for that, and thank you very much, Chair, for your indulgence.

The Vice-Chair: Please proceed.

Mr. O'Toole: I'm so engaged in this that hopefully there will be more questions.

Anyway, the cost to the government would be minimal compared to some of the monies being spent. I could go on for some time. I want to credit the chair of Durham region, Roger Anderson, who's also the president of AMO, as well as the mayor of one of the municipalities of mine, John Mutton, and the mayor of Scugog, who is also a very strong supporter of this. I'm looking forward to comments from deputations today.

With that, I thank you for your indulgence and I look forward to further comments as we move this forward with Minister Takhar.

The Vice-Chair: It's time for the government statement and response.

Mrs. Van Bommel: At this point, we are looking forward to hearing our deputations. As you said earlier, we as a government have put our energies into municipal tax credits so that the gas tax credits encourage the infrastructure of the public transit system.

1000

Certainly—and you mentioned it yourself as well—there's the concern of the rural areas. I think the question really becomes one of which came first, the infrastructure or the ridership. I think we need to make sure we have the infrastructure there so we can encourage the ridership.

There's no question about the fact that we, as a government, want to encourage people to get out of their cars and start using public transit. There's a real need, in terms of the environment and gridlock, to do those kinds of things, but we do also want to make sure that the infrastructure is there first. I think that's where we, as a government, want to put our energies at this point.

The Vice-Chair: Thank you, Mrs. Van Bommel. Would the official opposition like to speak as well?

Mr. Rosario Marchese (Trinity–Spadina): No, it's the third party now.

The Vice-Chair: OK, a third party statement.

Mr. Marchese: Thank you, Mr. Chair. I want to thank Mr. O'Toole for bringing this bill forward. I want to say that it's good to see Mr. O'Toole and the Conservative Party reclaiming "Progressive" in their name, which they lost while they were in government. It's important, from time to time, to get back into opposition so that you can genuinely be progressive again. So I laud him and his party for this effort. I also want to congratulate the many members Mr. O'Toole mentioned, whom I presume to be progressive as well on this issue. It's good to see that he's garnering a lot of support for this bill.

You will recall, Mr. O'Toole, the record of the Conservative Party in their two terms, eight years, when they left transit in a big hole by lack of funding. It's good, after eight years of doing very little—in fact, leaving such a tremendous deficit—in transit to get an initiative such as this to focus our energies on the environment. I think it's great.

It's interesting as a tax cut tool, and that's why it rings so Conservative in terms of the tax cut. Part of what it does, as I understand it, is that in terms of the tax credit, low-income individuals wouldn't be eligible because they're not paying taxes. I think the cut-off is—I forget—$30,000, $31,000 or $32,000 at the provincial and federal levels. So if it involves an income tax structure, which this bill does, as I read it, low-income people wouldn't benefit from this at all. I don't know how you're dealing with that, Mr. O'Toole, or whether you thought about that, but I think it's useful to study that as a problem.

There's reference made to the Ontario Professional Planners Institute, which, in one of the papers I read, talks about how giving such an incentive might motivate a 20% or 30% increase in ridership. It's a curious study—I'd like to see it—but those of you who are familiar with this will recall that the US invested a great deal of money in housing, infrastructure and transit, something the Conservative government didn't do when they were in power in a good economy. The Americans did what Canada used to do, and when the Americans started investing, Canada started disinvesting, which is curious. I think the Americans were modelling themselves after the work we had done in the 1960s, 1970s and 1980s, and after that, government support for infrastructure dwindled tremendously.

So, in terms of the question Mr. O'Toole raises—"What should the first step be?"—I wonder whether investing in infrastructure and transit would be the better way to go first. Because if we don't have the infrastructure in rural areas and cities to accommodate people and actually provide the convenience they're looking for, will they come? This bill suggests that if we do this, we'll get more riders, but I'm not sure about that. I'm not sure we have the capacity to do this in some cities, and in governments outside the cities. I'm worried about whether this is possibly the inverse of what we're trying to do.

We have to invest. This government has invested one cent. We gouge people through the gas tax, and we

reinvest so little in roads, infrastructure and transit—so little. The government claims they're spending their energy to do this in infrastructure. It's so tiny that I'm not sure about how great this investment is.

There are a couple of questions we're asking that we'd like to get answered. We are generally supportive of the idea, because we think it's a good idea, but we wonder whether we should be investing in infrastructure first and then pursuing this idea with all the attendant problems I'm raising and that I think other people have raised as well.

The Vice-Chair: There are a number of deputations, and the first party—

Mr. O'Toole: Chair, may I respond? That's kind of the normal thing. I think the schedule indicated I have a response.

Mr. Marchese: I don't think it's normal to do that, Mr. O'Toole.

Mr. O'Toole: I think it is.

The Vice-Chair: Do we have consent for Mr. O'Toole to respond?

Mr. O'Toole: A two-minute response.

Interjection: We don't have time.

Mr. O'Toole: We don't have time?

Mrs. Van Bommel: We need to have the deputants proceed. I think they've been waiting.

Mr. O'Toole: Oh, sure—absolutely.

ONTARIO PROFESSIONAL PLANNERS INSTITUTE

The Vice-Chair: The first party is the Ontario Professional Planners Institute. Welcome. Please come forward and identify yourself.

Mr. Gregory Daly: Thank you very much, Mr. Chair. Good morning. My name is Gregory Daly. I'm the chair of policy development for the Ontario Professional Planners Institute. I'd like to thank the committee for the opportunity to speak. I will note that my remarks are based, as you heard from one of the honourable members, on recommendations contained in a letter of April 25, 2005, which we provided to the minister. Copies of this submission are available on our Web site, which is www.ontarioplanners.on.ca.

The Ontario Professional Planners Institute, also known as OPPI, is the recognized voice of the planning profession in this province and provides leadership and vision on policy matters that are related to planning development and other important socio-economic issues.

As the Ontario affiliate of the Canadian Institute of Planners, OPPI brings together over 2,600 practising professional planners from across the province. We also have over 400 student members at Ontario universities. The breadth of our members' knowledge and the diversity of their experience provide OPPI with a unique perspective from which to contribute to planning and transportation issues.

OPPI members work for government, private industry and a wide array of agencies and not-for-profits, as well as academic institutions, engaged in a broad range of practice areas, which include urban and rural community issues, planning, design and environmental assessment, all related to planning and transportation issues.

OPPI is a professional association funded entirely by its membership through fees, programs and other activity revenue.

Through our public policy program, we conduct research on planning issues and general quality-of-life issues. We distribute this information to our members, government, the public and media, and our purpose is to provide objective and balanced submissions based on the collective experience and wisdom of our members.

We're very pleased to provide this submission on Bill 137 and to indicate support for this initiative.

Our members are active in formulating the land use and environmental policies and decisions that shape the land use fabric in Ontario. An objective of OPPI is to improve the quality of the Ontario environment and communities by the application of sound planning principles. Many of our members are involved in the planning and assessment of transportation and other infrastructure projects in Ontario.

It's our submission that Bill 137 would have the effect of reducing travellers' costs of using public transit. In doing so, it would make the costs of travel by transit closer to those travelling by automobile, in particular, since transit use would receive a similar tax treatment to that of employer-provided parking. The expected result is that more drivers would leave their automobiles at home and use transit for their daily commute to work.

1010

Our membership has advised that experience in the United States has shown increases of upwards of 20% to 30%, as you've heard, in new transit ridership when similar credits have been introduced.

OPPI wishes to express its support for Bill 137 for several reasons.

The proposed tax credit for using public transit represents a proven and effective measure that is necessary to retain existing transit riders, to attract new transit riders, and to promote a more level playing field between automobiles and transit.

The expected resultant increase in transit ridership supports, and is consistent with, the basis of many official plans in many of this province's cities. In many official plans, transit is promoted as a key alternative to driving in order to improve the efficiency of existing urban infrastructure and to reduce consumption of greenfields for new development. Transit achieves this by reducing the demand for paved areas—space allocated to new roads and to parking—and by increasing the overall accessibility of individual properties, thereby making them more valuable for high-density, mixed-use development, which in turn is a more efficient use of land and generally attracts more transit riders.

Increased transit demand improves the cost-effectiveness of providing transit services: As revenues increase, unit costs decrease. This helps to reduce the public expenditure required to support public transit.

By reducing the number of automobiles on the road during peak travel times, the resultant increased transit ridership will help to reduce congestion. Recent research in Canadian cities, and those would be Hamilton, Ottawa and Toronto in this provincial context, has shown that the costs of congestion are substantial and growing, including the value of time lost to delay and to increased vehicle operating costs.

Removal of drivers who do have the choice to use transit improves operating conditions and reduces costs for those who do not have the choice, such as truck drivers. Reduced congestion time improves the reliability of on-time deliveries, an important tool in the province's overall competitiveness.

Reductions in congestion, and in the numbers of automobiles on the roads generally, result in reduced emissions of air pollutants and greenhouse gases. Because smog and poor air quality have been linked with an increased incidence of childhood asthma and other health problems, reductions would reduce costs to health care and lost productivity while improving quality of urban life and promoting healthy communities.

In conclusion, OPPI is dedicated in its support of good community planning. We appreciate this opportunity to indicate our support for this critical issue, which has the potential to benefit planning, human health and the environment while reducing public outlays of money for transportation infrastructure in Ontario.

Thank you. I would be pleased to answer any questions from the committee.

The Vice-Chair: Thank you very much, Mr. Daly. Questions from members?

Mr. O'Toole: Thank you very much. I do respect the professional planners for taking the time to comment supportively in this small initiative. I have just a couple of points that I wanted to reinforce.

You mentioned probably most of the points that I think are more important, perhaps, than the tax credit itself. It's that initial move, the mindset that people have to make that transformation from the automobile to transit. Am I making that up? Because for me, it was a huge deal.

I worked in the automotive sector at General Motors for 30 years. For part of that I worked in transportation planning, actually, for just-in-time, reducing inventories—that was the issue. Am I right or am I just assuming this? Because the transformation for me was in a snowstorm one day. I noticed a couple of people I see regularly on the 401 making the exit to the GO station. I didn't really know where it was. So I followed them, because there was a snowstorm, and ended up—gee, they helped me out a bit. It was like a first day at work kind of thing. It was sort of like the first day I came to Queen's Park. It's a real transforming event, if it's done properly. Fortunately, I had someone to shepherd me through. Am I making this up or does that significant event have to happen to change people's behaviour?

Mr. Daly: OPPI sees this as an element of a larger need for additional monies for infrastructure for public transit purposes. Of course, this government has other initiatives that it's undertaking to deal with those elements of things.

We believe very strongly that this initiative is a mechanism by which both employers and individuals can perhaps take a step that they haven't been prepared to take before. The opportunity to provide transit passes or to get tax credits for individual employees could be the means by which people then see transit as a viable alternative to the automobile. Any instance within which we can have people understand that the opportunity is there for them and they can take advantage of it means that they will start to look at it as a viable, reasonable alternative to their vehicle.

We've heard a number of different comments about potential costs associated with parking and the like. It is a means by which individuals can start to see transit as the better choice. This is something which can apply across the province as a whole. Within larger municipalities, there is long-standing public transportation infrastructure and there is obviously the need for increased ridership. If this can assist with that in any way, it will assist in reducing costs. In smaller municipalities, in instances where we are linking to multiple transportation systems, this would also be another mechanism that could help people just take that extra step.

Mr. O'Toole: I just have another comment. You mentioned two things that are related to this besides the tax issue, which I'd leave to the government. That being said, I put on the record that the intent here would be to allow them to implement, by way of regulation—although I can't do that, they can, as a government initiative—a progressive tax structure to implement it: first, with monthly passes, and secondly, addressing some of the issues that Mr. Marchese mentioned. It would help the gridlock question. The currency of that issue of congestion is unsolvable without a lot of environmental assessments and the building of new infrastructure that just precipitates the problem we're in. Given the price of gas today as well, the timing of this is absolutely critical. They can take this and say, "Look, we're a good government. We think good policy is good politics," and go ahead with this and take full credit; I could care less. I think the end result is that the people of Ontario benefit.

The big thing here that needs to be on the public record—I was amazed when the Kyoto debate was being discussed. We were the government. It's not a new issue. The largest contributor to smog under Kyoto is not the coal plants, it's actually the internal combustion engine. The then Minister of the Environment, Elizabeth Witmer, commissioned a report in 2003. It was a part of the Lakeview coal plant closure issue. It's quite a comprehensive report. It says that 60% of air particulate matter and other contributing factors to degradation of the environment is actually the combustion engine. It's the big one. You look at it, and it's significant.

I'm looking for a brief response on that. How do we push this forward using just those two elements that you've mentioned in your submission today, to advance

this not in a political sense, but in a policy discussion? You, as the official planning voice for the province, at first stated this support for several reasons that you've identified. What would you recommend to this all-party committee to move this item further up in the discussion that I've just laid out before you? Because it won't get on the legislative agenda. There's a transportation bill—Bill 169, I think—before the Legislature now. As a planner, you could actually be the catalyst in forming this policy thrust, and I think it's got to come from a third party commentator like yourself.

1020

Mr. Daly: I know that this government has recently invested in health promotion through the creation of a new ministry. The Ontario Professional Planners Institute has been seeking ways to link with that ministry; in fact, the direction that our institute is taking as we move forward is looking at ways in which we as planners can contribute in a meaningful way to quality of life in this province. Under that banner, we acknowledge and recognize links between areas of health promotion, links to the medical community, public health initiatives.

We are acknowledging that there are many professionals in a variety of different capacities who are speaking the same message, that the way in which we live in our communities and the way in which we grow has contributed to a society which does not understand the link between actions and end state. Getting from the choice of, "As I left my office at Bloor and St. George to get on the subway and come here," as opposed to "get in my car and drive here"—that first instance means that I have made a choice and taken a step to reduce and respond to some of the end-state conditions which we see and understand are problems in our everyday life.

Health promotion is the way to do that. Health promotion is not simply preventive medicine; health promotion is promotion of healthy lifestyles, healthy habits and healthy community planning. In doing that, we need to understand, for example, intensification within this province as an integral component of supporting public transit. Whether or not that's linked to the greenbelt or other issues, intensification in and of itself is an incredible opportunity to respond that exists, whether it's in small communities or in the largest cities.

As planners, we need to continue to link to other professionals. It's our goal, and we've been attempting to do that. I would challenge the government and this standing committee to make those overarching, multi-professional links that need to be undertaken in order to properly respond.

The Vice-Chair: Mr. Marchese, do you have any questions?

Mr. Marchese: Yes, thank you. Mr. Daly, I agree with all the arguments you make, but we have a big problem in terms of how we deal with a car culture that we have created and that we continue to support. We depend on the car and the car industry economically, so there are a whole lot of people in this society unwilling to change that culture. Then we created a convenience culture—"The car will take you there"—and a status culture around the car, so it's going to take some work to change that around.

I really believe it takes a crisis to all of a sudden get people to change their minds. That's what normally happens. We've got a crisis, governments respond, and then we change habits. It's sad, but that's the way it normally works.

My understanding is that this would take about a half billion dollars out of provincial and possibly federal coffers; it's hard to know how the two link in terms of costs. It's almost $1.2 billion by estimates that I have seen. I'm not sure if this is correct or whether you guys have done some analysis. Half a billion dollars, or $600 million, is a lot of money. This government, indeed most governments, wouldn't want to find that kind of money for this kind of initiative. They just wouldn't do it. If they were to do something, they would invest in infrastructure because it's much more visible in terms of what you can accomplish. I suspect that is what they would do, but they're not going to spend that kind of money on infrastructure either.

But my sense is that in order to get people to start considering transit, you've got to make it more convenient. You've got to provide the infrastructure. If you don't do that, I'm not sure that given the other incentive to those who are somewhat well-to-do to use transit—that we might attract other people on to transit. That's the first question, in terms of where we invest the money.

Secondly, there was another planner—I think it was Berridge—who did a study for Toronto. Is it Berridge?

Mr. Daly: Joe Berridge.

Mr. Marchese: Joe Berridge. He's a planner; correct?

Mr. Daly: Yes, he is.

Mr. Marchese: His study talked about the fact that the Americans were investing unlike ever before. My sense is that because they made serious investments in transit as well, that's what caused the 20% to 30% increased use. I could be wrong, but that's an assumption I make. What do you think about where we invest and whether or not that investment in the US has caused the increase, rather than the tax credit?

The Vice-Chair: Mr. Daly, you have up to one minute to answer this question, so that Mrs. Van Bommel can ask her question.

Mr. Daly: I see this as a two-pronged question, Mr. Marchese, and I understand that first we also need to invest in infrastructure, because if transit is not conveniently located or accessible, then the credit is useless. But there are instances where the credit can be effective and of assistance now, and it will, we believe, support increased ridership, which then will help to provide additional dollars for infrastructure. There is an element of that. But it must go hand in hand, obviously, with additional dollars for infrastructure.

The second part of your question is how investments are to be made. We need to ensure that we invest in public transit in areas where we can get the most value for the response. There are many, many studies that have been done which talk about different forms of transit and

different opportunities, whether it be GO Transit buses or trains or subways or the like. But we need to ensure that there is a link between where we develop, where we provide for intensity of development, and where we provide for infrastructure. If we provide public infrastructure support for transit without a concurrent land use planning initiative to ensure that there are densities to support that, we're wasting our money and our time.

Mrs. Van Bommel: Thank you for your presentation. Certainly as planners, I know you have members in rural areas. We agree with the idea that we want to get more people using public transit, but I also have to concur that I think convenience is an important part of that. Coming from a rural area, I would like very much to be able to use public transit, but the infrastructure, firstly, is very limited; secondly, the scheduling is very inflexible, which means that often there is very little choice for me other than to take my car, even though I don't want to.

As a government, we have to set priorities, and we would like to see the infrastructure there first. I think, for myself, public transit should be something that's available to all Ontarians, and we need to get the infrastructure in place. As has been stated, this is a very costly proposal, and I would like to know your opinions of how we can get the people to use that. I'm not really convinced at this stage that giving a tax credit is going to be the incentive. Quite frankly, I think the price of gas right now is probably more of an incentive to use the public system than to give a tax credit, because, as I say, scheduling in certain areas is very limited and we need to get infrastructure in there so we can get more flexible scheduling in place for people to be able to use it. I think that's a greater incentive than a tax credit. But you must hear from your rural members as to how they feel about infrastructure for public transit and the need to do that in all of Ontario. I'd like to hear what your members are saying about that.

The Vice-Chair: Again, Mr. Daly, you have up to one minute to answer.

1030

Mr. Daly: Thank you, sir.

Absolutely, and I can speak from personal experience. I am a rural member. I live in Dufferin county. My transit option is one GO bus down from Orangeville in the morning and one back in the evening. So convenience is an element of that; flexible schedules are another aspect of that.

There are a number of different things that can be done to support and augment this initiative, but having said that, there are positive benefits to this because it provides, again, an additional opportunity. And it's not just the individual. It could be employers as well: employers purchasing transit passes that can then write those transit passes off, where that opportunity did not exist before. If employers are making that choice, educating their own employees about these opportunities, then employees can take advantage of it. My employer provides me with free parking where I work. If they provided me with free transit as well, then I have a choice that I didn't have. For many people, that can be the element that tips the bucket and starts people using the system where they didn't before. If more people are taking the GO bus from Orangeville, then they're going to need more buses. Yes, that's an increased cost, but then it comes back to them in increased ridership, reduced congestion, and less need for widening of Highway 10.

The Vice-Chair: Thank you very much, Mr. Daly.

GREEN PARTY OF ONTARIO

The Vice-Chair: The next deputant is the Green Party of Ontario. Please come forward. Welcome, and please identify yourself.

Mr. Raymond Dartsch: My name is Raymond Dartsch. I'm the transportation issues advocate for the Green Party of Ontario, which is another political party that exists in this province. I have a presentation to make regarding this bill.

Bill 137 would provide direct financial incentives to Ontarians who decide to use transit services, via their income tax returns. Thus, Bill 137 would provide indirect support to the many municipal and regional transit services that operate in Ontario.

The benefits to society at large that result when individuals choose the transit mode over the private vehicle mode are well known and generally accepted, and I need not reiterate those benefits in my presentation. These benefits have been implicitly acknowledged by the governments of Ontario and Canada, who have chosen to directly invest $1 billion in the expansion of GO Transit train and bus services, the implementation of VIVA express bus service in York region, and the apportioning of a fraction of gasoline taxes for the TTC and other transit services in Ontario.

Anything that supports transit development in smoggy, gridlocked southern Ontario is to be welcomed, which would seem to make support of Bill 137 a no-brainer. However, one item for consideration on this issue did occur to me, and apparently to a lot of other people, from what I'm hearing. I have 10 minutes to speak, so I will discuss this item.

We must consider the question of whether it would be wiser for the government of Ontario to support transit in a more direct fashion than by using the Income Tax Act. Does it make sense to add yet another schedule to the ever-fattening package that Ontarians receive at tax time each year? Maybe we could just use provincial money to lower fares across the board, or build more infrastructure to make transit more convenient, instead of insisting that passengers store up their tickets and passes to hand over to the taxman so as to claim their credit. This is a legitimate and important question. I would argue that it is appropriate to use the Income Tax Act as a device to promote transit use. I'm all for increased direct transfers from the province to different transit services, and I'm confident such transfers would be used wisely and effectively in nearly every instance. But the problem that I hope to see addressed by Bill 137 is how to achieve that psychological switch in the minds of as many individual

Ontarians as possible that it makes sense to use transit. There's nothing like an income tax credit to inspire people to move their behaviours in a more socially desirable direction. I believe it's the case that above a certain income level, transit use is fairly cost-inelastic. If you play with the train fares $1 each way, for example, you're not going to draw that many customers out of their cars, but once word got around that a monthly GO pass could be claimed on one's income tax return, I would expect that GO would have to place orders for a lot more trains to keep up with the demand.

That leads me to another point. It's true that GO trains and some TTC routes are bursting at the seams with their passenger loads, but many transit systems have the opposite problem, that of unused capacity. I see a lot of buses with three passengers on some routes out in Hamilton and Burlington. Extra funding directly to the HSR or Burlington Transit may not be the remedy for that situation, whereas credits to individuals who would fill up those buses at negligible incremental cost are a much better idea.

I've described the effectiveness of Bill 137 as being due to certain psychological factors acting on the individual decision-making process. However, Bill 137 is not simply a manipulative marketing ploy for transit. The Income Tax Act awards credits for tuition fees and retirement savings because it has been recognized that personal choices in these areas have significant consequences for the well-being of the public at large and for the future of our province.

Transportation in Ontario has deteriorated to the point where it is necessary to exploit every possible lever to reverse a critical situation. If passed by the Legislative Assembly, Bill 137 would be a powerful and effective lever in this regard. I commend John O'Toole, MPP, for his efforts and initiative on this bill.

Thank you for your time and attention.

The Vice-Chair: Thank you very much, Mr Dartsch. Questions from members?

Mr. O'Toole: Thank you very much, Raymond. I think you've summed it up very well in terms of some of the initiatives currently underway. York region is doing probably the best job. Ottawa is doing a fairly good job too on its integration of transit. But it does take that personal choice that you described, as well as what I call a major significant event, to change behaviour. I think we've all acknowledged that.

Ms. Van Bommel mentioned timing, which I'm not surprised by, actually. They think that by increasing the price of gas, people are going to be forced to make that choice. That's another debate. I just want it on the record that that's what I heard her say, that they'd like to see gas prices go up so that people won't have any choice but to find alternatives. They said the same thing recently on a couple of things. On electricity, they've said, "Conservation is a large part of the energy solution," so they're going to raise the price. Now you're going to have to stop eating or stop heating your home. That seems to be the intransigence of their policy attitude: Collect more tax and let people suffer the consequences.

What we're asking for here is not the half-a-billion-dollar solution. We're asking for it to be an integral part of a broader solution, which of course the planners have addressed. The planners addressed it, I believe, in a more holistic way, as you have here. Making municipal planners part of the strategy of implementing it, with employers, is very important: reducing parking, paved spaces, less need to expand Highway 10 to accommodate more cars, all these things. Unless we as a planning group, as a policy development group, are prepared to really put our foot forward—and I have John Tory's ear on this. He's a leader you can trust. He represents that very area, saying that we've got to make a synergy change, really quite a paradigm shift here. Now is the time to take leadership.

What would your response be to the government? Not us—I'm not government, I'm opposition—but you are a third party stakeholder and you could tell the government to get off this thing about building more infrastructure, blah, blah, blah—nothing's changed—so that we can move this forward.

Mr. Dartsch: I would like to see that kind of shift in priorities. I would have to say that the highway extensions are really just carrying forward policies—

Mr. O'Toole: Same old same old.

Mr. Dartsch: Yes—from previous governments. But I think when a problem has been allowed to develop to such a large status, there are a lot of different angles that it can be and has to be attacked from. This is one of them. Once upon a time, anywhere you wanted to go, you could get on to interurban lines and extensive bus services and lots of electric radial railways through every mid-size Ontario town, and you had networking effects: "I can get from A to B; I can get from A to D via B and C." That was all demolished and we now have the networking effects and the economies of scale of a car culture. So the weaknesses and the problems are finally being recognized. I wouldn't have gotten here on time today if I didn't know how to use the GO train, coming in from Burlington. I had to skip the Burlington station because the parking lot was full and then sit in traffic between Guelph Line and Appleby Line, crossing my fingers that I'd actually make it to the train. You have to get through all these automobiles before you can even access public transit.

What the current government has done with the $1-billion investment in GO Transit, federally and provincially, is long overdue. It's good that it's happening. We need to see more of that, and I also think we need to see your bill come into play.

1040

If the statistics I was hearing are true, that it's achieved a 20% to 30% increase in transit use in US jurisdictions where this is in place, I'm sure the half-billion-dollar loss of revenue that the tax credit would represent would be more than offset with the health benefits and the infrastructure benefits of not having to do so much road maintenance and road widening. Somehow, it seems that something has clicked in the American consciousness and they're building transit and re-

installing lines like never before, and they have a lot of flexibility in financing it that we don't have up here. Down in Miami, they have referendums. People actually vote to increase taxes to pay for these grandiose schemes that are coming into reality, which hopefully won't be washed away by the next hurricane. Ontario has a long way to go to re-establish our pre-eminence in North America. We've got this wonderful legacy of infrastructure that has more or less been maintained, but there's a lot of room for expansion.

The Vice-Chair: Mr. Marchese.

Mr. Marchese: Can I ask how much time we have so that I know whether to ask one question or two quick ones?

The Vice-Chair: You have about five minutes.

Mr. Marchese: Five minutes each?

The Vice-Chair: You have a total of five minutes.

Mr. Marchese: I thought we had five minutes left for the whole group. I see. OK.

Thank you, Mr. Dartsch, for your comments. As I understand it, low-income individuals who don't pay any income taxes wouldn't benefit from this. Do you have a comment on that?

Mr. Dartsch: Yes. I didn't notice it was going to be a non-refundable credit, as currently drafted. When I made my contribution to my own political campaign, that was a refundable tax credit. At that time, I was a low-income individual and it triggered money back on my taxes. I'd like to see something similar, a revision of the draft of Bill 137, which would make it refundable.

Mr. Marchese: The other point is, there's reference to American data or research, and I'm not entirely clear on that. I am convinced, without knowing the research, that because the Americans invested in infrastructure in many parts of America, combined with this kind of an initiative, it perhaps allowed people to get into transit. But without investing in infrastructure, I'm not sure that this, in and of itself, would bring a 20% to 30% increase.

Mr. Dartsch: I can't quote you any formal reports on the matter. I have my own top-10 list of fantasy infrastructure projects that I think would be really popular and draw many people on to transit, but—

Mr. O'Toole: What are the 10 fantasy projects?

Mr. Dartsch: Oh, an Eglinton subway line, across-town GO transit on the east-west line.

Mr. Marchese: You want my time again?

Mr. Dartsch: Sorry, I'm getting off topic.

Mr. O'Toole: He has to get it on the record. As the Green Party candidate, he'd be running against you.

Mr. Dartsch: They really do go hand in hand. If you were to have the tax credit that did result in some huge—most of the GO trains are standing-room-only at the moment.

Mr. Marchese: Raymond, we have a problem, right? We had a good economy under the Tories, and they squandered it by leaving us a deficit. We still have a good economy, and we still don't have money to spend on transit. We are lucky that the Liberals have given one cent. We still take a whole lot of money from drivers through the gas tax, both federally and provincially, and the federal government rakes in a lot more than they invest back in transit. I don't see this government or the federal government saying, "Here's the money." It's coming in trickles. We don't even know how much we're going to get.

Given the cost, which is close to half a billion, as I understand it, and maybe others are better economists in terms of figuring this out, if we had that kind of money—and we obviously don't, given the current financial structure—where would you spend it?

Mr. Dartsch: What I've noted with the government is that whenever they really want to do something, the money is usually there. It's just a question of how big a priority it becomes in regard to all the other priorities. It's really how to balance anything versus the needs in health care, education and transit. It would be really good if all of these different areas were pulled apart from each other and Ontarians could make direct choices: "This is your transport tax; how much do you want to spend? This is the benefit you get. This is your health tax. How much do you want it to go up and down by?" I know that's not how it works, and that's not likely how it's going to work, so I think you're asking an insoluble question.

In a public poll I saw a couple of years ago, the traffic situation, at least among Torontonians, is the number one issue that they'd like to see addressed. That probably hasn't changed very much. What could we be doing with the $2 billion that is lost every year to the economy because of trucks sitting on the 401 not going anywhere? That would pay for a lot.

Mr. Marchese: There was a point that I thought about in terms of trying to reduce the use of cars so that we could allow trucks to have free flow on those roads. Can you imagine that? They pull in more than cars do, and in order to get on-time delivery we're quite happy to say, "Ah, trucks. Now you can go and destroy our roads." We end up paying for this. You're not suggesting—

Mr. Dartsch: Trucks have to start using transit too.

Mr. Marchese: Don't you think? That's what I think.

Mr. Dartsch: CP Rail offers a service where you load your trailers on in Toronto and they take them to Montreal for you. I think the trend in that industry is going to go that way, because they're not moving anywhere on the roads and they're running out of drivers—

Mr. Marchese: We should be looking for incentives to get trucks off the road, shouldn't we?

Mr. Dartsch: Well, it's all a big project of—

The Vice-Chair: Mr. Marchese, your time is up.

Mrs. Van Bommel: I'd certainly like to comment that I think Mr. O'Toole has a hearing problem: I did not say that gas prices should go up, or even that they should be this high. I want that on the record. Thank you very much.

One of the things I noted in your comments—and I want to just thank you for your presentation, Raymond—is that you expressed some real frustration with the fact that you couldn't go to one station and you had to bypass it and travel down farther. If that kind of frustration is experienced by other potential riders, would you not say that, really, in terms of priorities we need to look at

infrastructure first? You need to be able to access, to get there and have something there. If you're going to have to keep bypassing one station after another, aren't you finally going to get frustrated enough that, regardless of any kind of tax credit, you're going to throw your hands up and get back in your car and just keep driving?

Mr. Dartsch: Certainly, especially with GO Transit and some of their rail lines, that is a big problem. Those are urgent priorities that are being addressed. A parking deck is going to be constructed at Burlington; that will ease some of the problem there. So, to some extent, that's underway already.

I am partial to throwing lots of money at the transportation issues. That's why they made me the transportation issues advocate. I can't really answer for the larger Green Party line on where that priority fits in with all of the other priorities, because it would represent some money not coming to the treasury that otherwise would come.

I believe—I can't give you anything to back it up—that any dollar, whether it's supporting an individual rider or the system that the rider uses, will have a multiplier effect to the economy at large and to people's quality of life at large.

I think at this time in history in this place of Ontario it's the best place to be putting dollars to bring health, environmental and economic benefits, more so than any other government program that I can dream up. I'm a registered nurse by profession, so I'm sensitive to health issues as well. I know there's a huge need there. But I can't really give a definitive response to that. There may be economic models that could be created to see what kind of benefit you do get for cost with one route versus the other.

Generally speaking, just using the general term "infrastructure," if we talk about specific infrastructure projects, I could maybe comment more intelligently there as well. I think if an Eglinton subway line were built from Pearson airport to Scarborough, that would see tremendous use and represent excellent urban planning.

Mrs. Van Bommel: I think it's been acknowledged that we, as a government, are working with a deficit. So we have to take the dollars that we do have and prioritize, and we have to make decisions as to where the best value is in terms of what we want to do.

So again, the question really is, which comes first? Should we be talking about infrastructure or should we be talking about tax credits to ridership? Which would be more conducive in getting people out of their cars and into the public transit system? As you yourself have just said, you get frustrated if the infrastructure isn't there.

The Vice-Chair: Mr. Dartsch, please try to answer the question in 30 seconds.

Mr. Dartsch: OK. I think a tax credit program would do an excellent job of selling transit. There is a lot of demand that's out there that can be served today. Gas prices shot up and GO Transit reported an immediate large increase in their long-distance ridership. That got a lot of cars off the road and stopped a lot of gas burning. I think that target market would be similarly affected by this, because they spend so much. The transit from Milton or Georgetown is big money and would represent a big savings to those customers.

The Vice-Chair: Thank you very much.

Members, we originally had another deputant, Ms. Hilde Van Veen. She has cancelled and will not be appearing. However, she has provided us with a written submission. There are no further deputants.

Mr. O'Toole: Chair, if I may bring some conclusion to this.

The Vice-Chair: Very briefly.

Mr. O'Toole: Very brief. I have a question, through you, Chair, to the clerk. What would be the outcome of today's contribution by the two deputations, as well as members of the committee? What will happen to the bill?

The Clerk of the Committee (Ms. Tonia Grannum): When the House returns, the bill will have a subcommittee meeting to determine when we're going to go through clause-by-clause consideration. So the presentations today are taken into account by the members, by research. If there are any proposed amendments that any party wants to introduce, they would do so at clause-by-clause time, which will be determined at a later—

Mr. O'Toole: So the subcommittee of this committee would have a determination if it was to go through a further process.

The Clerk of the Committee: We have to have clause-by-clause to get the bill—

Mr. O'Toole: So there has to be clause-by-clause, and at that time, any amendments would be submitted.

The Clerk of the Committee: We'll set a deadline, and then the amendments would have to be submitted by that deadline.

Mr. O'Toole: Great. That's technical.

In conclusion, I'd like to thank the deputants for taking the time, and encourage the Canadian Urban Transit Institute, Dr. Michael Roschlau—I've talked to him directly. I would encourage government members to contact them and to take ownership in this, in whatever form it is being phased in. In your own current throne speech deliberations, you might want to recognize some of the valuable comments made by planners today and implement them as part of the solution, part of the options for employers and employees working with the federal government, because this is on their agenda as well.

Whether the best traction is through the subsidy, through the gas tax, is a debate that, Mrs. Van Bommel, you would be familiar with. It doesn't serve all of Ontario. In terms of policy, that should be the objective here.

So I'm pleased to say on the record that I'm willing to relinquish this and encourage you in some way to try and move it carefully on to the agenda. I would respect and commend you for that effort.

Thank you very much, Chair, for the time.

The Vice-Chair: Thank you, Mr. O'Toole. Thank you all, members as well as the deputants. The committee is adjourned until 9:30 a.m. tomorrow, September 20.

The committee adjourned at 1053.

CONTENTS

Monday 19 September 2005

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Chair / Présidente
Ms. Marilyn Churley (Toronto–Danforth ND)

Vice-Chair / Vice-Président
Mr. Tony C. Wong (Markham L)

Mr. Gilles Bisson (Timmins–James Bay / Timmins–Baie James ND)
Ms. Marilyn Churley (Toronto–Danforth ND)
Mr. Kim Craitor (Niagara Falls L)
Mr. Kuldip Kular (Bramalea–Gore–Malton–Springdale L)
Mr. Gerry Martiniuk (Cambridge PC)
Mr. Bill Murdoch (Bruce–Grey–Owen Sound PC)
Mr. Khalil Ramal (London–Fanshawe L)
Mrs. Maria Van Bommel (Lambton–Kent–Middlesex L)
Mr. Tony C. Wong (Markham L)

Substitutions / Membres remplaçants
Mr. Vic Dhillon (Brampton West–Mississauga / Brampton-Ouest–Mississauga L)
Mr. Rosario Marchese (Trinity–Spadina ND)
Ms. Judy Marsales (Hamilton West / Hamilton-Ouest L)
Mr. John O'Toole (Durham PC)

Clerk / Greffière
Ms. Tonia Grannum

Staff / Personnel
Mr. Jerry Richmond, research officer,
Research and Information Services

T-13

ISSN 1180-4319

Legislative Assembly of Ontario

First Intersession, 38th Parliament

Assemblée législative de l'Ontario

Première intersession, 38e législature

Official Report of Debates (Hansard)

Tuesday 20 September 2005

Standing committee on regulations and private bills

Safe Streets Statute Law Amendment Act, 2005

Chair: Marilyn Churley
Clerk: Tonia Grannum

Journal des débats (Hansard)

Mardi 20 septembre 2005

Comité permanent des règlements et des projets de loi d'intérêt privé

Loi de 2005 modifiant des lois en ce qui concerne la sécurité dans les rues

Présidente : Marilyn Churley
Greffière : Tonia Grannum

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Copies of Hansard

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

Exemplaires du Journal

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Tuesday 20 September 2005

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mardi 20 septembre 2005

The committee met at 0940 in committee room 1.

SAFE STREETS STATUTE LAW AMENDMENT ACT, 2005

LOI DE 2005 MODIFIANT DES LOIS EN CE QUI CONCERNE LA SECURITE DANS LES RUES

Consideration of Bill 58, An Act to amend the Safe Streets Act, 1999 and the Highway Traffic Act to recognize the fund-raising activities of legitimate charities and non-profit organizations / Projet de loi 58, Loi modifiant la Loi de 1999 sur la sécurité dans les rues et le Code de la route pour reconnaître les activités de financement des organismes de bienfaisance légitimes et organismes sans but lucratif.

The Acting Chair (Mr. Gilles Bisson): The meeting will come to order. I'm just standing in, taking a bit of initiative. Our Chair is a bit late and detained. We know that we have people here sitting, waiting. So without further ado, we'll get started.

I'm Gilles Bisson, one of the members of the committee, a New Democrat. I'm not the Vice-Chair, for the record, but we'll just get this thing going.

We're here today to deal with Bill 58, An Act to amend the Safe Streets Act, 1999 and the Highway Traffic Act to recognize the fund-raising activities of legitimate charities and non-profit organizations. We have a morning of hearings. The bill is sponsored by Mr. Jean-Marc Lalonde. Without any further ado, Mr. Lalonde, you have the floor.

Mr. Jean-Marc Lalonde (Glengarry–Prescott–Russell): Thank you, Mr. Chair. I am pleased to share introductory remarks today on my private member's bill, Bill 58, the Safe Streets Statute Law Amendment Act, 2005.

Before pursuing further the contents of my private member's bill, allow me to briefly speak to the bill that I propose we amend, namely Bill 8, the Safe Streets Act, 1999, commonly referred to as the squeegee bill.

The Safe Streets Act was introduced in 1999 by the Attorney General and was mainly intended to make the streets of Ontario safer. This legislation addressed a wide range of issues by amending the Highway Traffic Act to regulate certain activities on roadways. For instance, the Safe Streets Act amended the Highway Traffic Act to prohibit solicitation in an aggressive manner. This piece of legislation defines "aggressive manner" as follows:

"Threatening the person solicited with physical harm, by word, gesture or other means ... ";

"Using abusive language during the solicitation ... ";

"Solicit a person who is in or on a public transit vehicle."

This bill deals with a wide range of issues, from prohibiting people from disposing of broken glass and new or used needles in public places to even outlawing hitchhiking in Ontario.

I am not here today to defend or question the merit of the Safe Streets Act. That is a debate in itself. However, I am here because one section of the act is causing problems, not only in my riding, but across the province.

Allow me to quote the section of Bill 8 in question:

"7(2) No person, while on the roadway, shall stop ... or approach a motor vehicle for the purpose of offering ... any commodity or service to the driver or any other person in the motor vehicle." This section in fact finds any charitable organization that conducts roadside events guilty of a provincial offence.

I do not want to turn this into a partisan debate, but one can argue that Bill 8, the Safe Streets Act, has not been completely successful in putting a stop to squeegee kids. However, what the act has been successful in doing is shutting down legitimate, charitable organizations in Ontario, such as Muscular Dystrophy.

I decided to introduce this bill after receiving letters from municipalities and firefighters as well as many phone calls from non-profit organizations such as the Optimist Club, the Knights of Columbus, the Lions Club, the Boy Scouts, the Girl Guides and many others that are negatively affected. However, Muscular Dystrophy is the best example—or worst example, to be more accurate—of a non-profit organization being negatively affected by Bill 8, the Safe Streets Act.

Since its implementation, Muscular Dystrophy Canada estimates a loss in revenue of more than $1.3 million. This has to stop, and this is where my bill comes in. Bill 58, the Safe Streets Statute Law Amendment Act, would amend the Safe Streets Act to allow legitimate fund-raising activities on roadways.

During second reading of my private member's bill, all three parties stood in the Legislature to express their

support for Bill 58. During the debate, the member for Barrie–Simcoe–Bradford offered constructive criticism with respect to the fact that the bill refers to two different terms: charitable organization and non-profit organization. I appreciate my colleague's advice, and consequently will be tabling an amendment to my bill that states clearly that only legitimate non-profit organizations would be allowed to hold fundraisers. Using "legitimate non-profit organizations" as the sole term in the bill is essential in clearly stating that only clubs, societies or associations that operate for any other purpose except for profit would be allowed.

That being said, the other two provisions are to only allow these fundraising activities on roadways not exceeding the maximum speed limit of 50 kilometres an hour and where they are permitted by a bylaw of a municipality. These provisions ensure that we maintain safety by allowing a maximum speed and that we also respect the municipality's choice to use their discretion by placing the onus on them to pass a bylaw if they do not currently have one. Simply adding these two subsections to the Safe Streets Act would make a world of difference for so many charitable organizations and, more importantly, for so many Ontarians who benefit from these charities.

I hope I can count on your support for this bill, as you have graciously done so for second reading just a few short months ago. I will not go further into detail with respect to my private member's bill as, for lack of a better term, it speaks for itself. I would be more than happy to answer any questions you may have.

The Vice-Chair (Mr. Tony C. Wong): Thank you, Mr. Lalonde. The official opposition statement, Mr. Martiniuk.

Mr. Gerry Martiniuk (Cambridge): I certainly am in favour of this bill, of an amendment to the Safe Streets Act. I believe that these organizations would be responsible in giving motorists plenty of warning before they would meet with them. Although that is not provided in the bill, I know these are responsible organizations that would provide traffic warnings, warning of a possible stop or slowdown of traffic, to prevent accidents and misfortune to motorists.

My only concern, again, is in relation to the two types of organizations. A non-profit organization could be incorporated by practically anyone if you get the required number of members together. You apply to the Corporations Act as a non-share capital company, and that is, in effect, a non-profit corporation. I know that in the past—I don't know whether they still do—the corporations department did an investigation of the individuals applying. That was primarily aimed at private clubs, which at times would be used as gambling establishments. I believe those investigations were primarily aimed at persons with criminal records. So if you don't have a criminal record, practically any group of 12 people could in fact incorporate a non-share company, which we know as a non-profit corporation. There is a danger there that that could be done.

0950

However, a charitable corporation is an entirely different thing. Usually they are a non-profit corporation, incorporated under the laws of Ontario or the statutes of Canada. To obtain charitable status they must apply to Revenue Canada to show that they are persons of goodwill and their true aim is charitable uses. This corporation does go through quite a bit of scrutiny. Of course, they have to file and show Revenue Canada that they continue to be a charitable organization; otherwise their number will be declined or cancelled. That has happened to some charitable organizations. For instance, I believe Greenpeace is no longer a charitable institution in Canada because of the lack of filing the necessary papers with Revenue Canada.

There is a difficulty with non-profits; certainly not with charitable. I'm very comfortable with that. With non-profits, I can see no reason why a group of individuals who want to find a loophole in the Safe Streets Act could incorporate a corporation at relatively little expense, and without further scrutiny proceed in the manner they did prior to the passage of the Safe Streets Act.

By the way, there was a person injured. It was primarily aimed at what is known colloquially as squeegee kids, as you know. Unfortunately, a person in that role was injured not too far from my apartment on Church Street. That was one of the quite valid reasons that the act was passed: to prevent loss of life and limb.

Subject to those comments, I certainly commend Mr. Lalonde for bringing this forward. It will receive my support if I can be satisfied that we can clarify the problem with non-profit corporations. I have no problem with charitable organizations whatsoever.

The Vice-Chair: Thank you, Mr. Martiniuk. Third party statement, Mr. Bisson.

Mr. Gilles Bisson (Timmins–James Bay): Gilles Bisson, critic for transportation for the NDP caucus. I want to say that we support where you're going, Mr. Lalonde. We did so at second reading and we continue to do so.

My view is that we should scrap the original bill. I always thought the original bill was rather silly. In a funny way it was interesting to watch Conservatives introduce a bill that basically hit at the fundamentals of what entrepreneurship is all about. One of the basic forms of entrepreneurship is when somebody doesn't have any money and decides they're going to try to panhandle. I just thought it was rather interesting that Tories were against individual entrepreneurship. Anyway, that's just my take.

Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Aldershot): The only time I ever got my windows cleaned.

Mr. Bisson: That's right. Anyway, I just thought it was kind of interesting.

I look at the bill and I'm sure you're going to be open to some amendments because I think, as mentioned earlier, there are some amendments that need to be done

in order to clarify the bill as far as making sure that it covers off a couple of items that seem to be somewhat confusing. I'm not going to repeat all the arguments made in regard to not-for-profit corporations and those recognized under Revenue Canada. I would only say that if we put a definition in, we should try to stick to something that applies to Ontario legislation. This is the Ontario Legislature. We should look at maybe including the definition based on whatever acts provincially that would basically cover that off.

On the other issue, the issue of safety, because of the way the bill is written, there seems to be some ambiguity as to when you are able to stop a car. Is it over 50 kilometres an hour or is it under? I know the bill says under 50, but the way it's written and from what I've been told by legislative research and also our own researchers, there's a bit left to be desired. And I've had a chance to talk to some police officers on this issue. I'm sure what you want is what I want and what everybody wants, which is that if we're going to allow this type of activity to happen, we need to make sure that at the end of the day it's done in a manner that's safe and doesn't put in danger anybody who is participating either on the receiving or giving end of the fundraising activity.

The other thing I think we need to clarify—to amend; I don't think it's a clarification—is that the current act, as it sits, basically says the proposed exemption would only apply to those municipalities that permit soliciting. I don't know; is Timmins any better or worse than Kapuskasing, Sudbury, Toronto, Hamilton, or any other community? I think we should have a provincial statute that deals with those fundraising activities overall.

I can tell you, where I come from, which would probably be no different from any of you, the firefighters, the volunteer and full-time forces, would often have fundraising events where they would basically stop traffic to raise dollars for much-needed community work in our communities—mostly helping kids is the one that I've seen; the MS society is the other one. I don't think we want to be in a situation where fundraising activities are allowed in one community but in the community down the street are not allowed because of municipal bylaws. I'm of the view that we should have a provincial statute that deals with this clearly so that whatever we do affects all communities across Ontario and not just the one.

I look forward to the hearings. I say again, I would be more than prepared to support an amendment that says this bill will strike down the current bill. That would be the end of that and we wouldn't have to worry about it, other than making sure that safety issues are taken up within the Highway Traffic Act and others.

The Vice-Chair: Thank you, Mr. Bisson. Government statement?

Mr. McMeekin: Mr. Chairman, I'll be very brief. I want to congratulate my good friend and colleague Jean-Marc Lalonde. He is always a progressive pragmatist, one who listens carefully to the people in his riding and across Ontario and draws to our attention, in an unabashed way, changes that need to be made, based on his practical insights. With that, I'm anxious to hear the presenters, who I suspect—though I don't know this for sure—will be equally positive toward Mr. Lalonde's initiative.

MUSCULAR DYSTROPHY CANADA

The Vice-Chair: Members, we have a number of deputations. The first is Muscular Dystrophy Canada. Please come forward.

Welcome, and please identify yourselves.

Ms. Kelly Gray: I'm Kelly Gray. I'm the executive director for Ontario and Nunavut for Muscular Dystrophy Canada.

The Vice-Chair: Thank you. You have up to 20 minutes for your presentation, as well as questions.

Ms. Gray: Members of the standing committee, good morning, and thank you for the opportunity to address you. I would also like to thank our family, friends and firefighters for being here, as well as our staff. We greatly appreciate everyone coming out this morning.

Muscular Dystrophy Canada is a non-profit organization that provides education, equipment and services to persons with neuromuscular disorders. We also fund research toward finding treatments and cures.

You'll hear from my co-presenter, Marg Otter, that our ability to achieve these goals has been seriously strained by Bill 8, known as the Safe Streets Act. From the literature we've just provided to you, you will see that Muscular Dystrophy Canada, as of September 2005, has lost an estimated $1.7 million since Bill 8 has come into effect—revenue that until Bill 8 was introduced was generated from boot drives and carried out by Ontario firefighters from across the province.

As a national organization, the Safe Streets Act has impacted not only Ontarians but also Canadians. Nationally, Muscular Dystrophy Canada raised $7 million last year. Ontario raised $2.6 million of that. Firefighters nationally raised $2.2 million last year. Of that, $900,000 came from Ontario. Ontario, as you can see, is a very large portion of the organization's revenue. Any loss in Ontario is felt nationally.

As Ontario boot drive revenue continues to decrease, the organization's ability to fund research, equipment and services is at risk. With the support of the Ontario Professional Fire Fighters Association, the Fire Fighters Association of Ontario and the International Association of Fire Fighters, we are making an appeal to you to allow our most trusted and loyal supporters to continue to fight our fire.

Muscular Dystrophy Canada receives no government funding federally or provincially, and we are not here to ask the government of Ontario for money. We are only here to ask you to adopt Bill 58, amend Bill 8 and let us continue to help people with neuromuscular disorders and their families across Ontario and across the country.

I would now like to ask my co-presenter, Marg Otter, director of service for Ontario and Nunavut, and a registered nurse, to please speak.

1000

Ms. Marg Otter: Thank you to each of you for giving this opportunity to us. This amendment is so critical. In Ontario there are 3,800 people registered with us with over 100 types of neuromuscular disorders. It's critical to them that the firefighters' funding continues to come in.

I'm going to briefly explain—Kelly mentioned that we do a lot of advocacy and education and referral, and that's certainly a big part of my job, but one of the biggest parts is the funding of equipment essential to people with neuromuscular disorders. We are not cancer and stroke, we are not diabetes, we are not the large organizations, we are not even MS. MD, Muscular Dystrophy, is small in the whole scheme of things, so when we have some dollars cut off, the impact is profound and phenomenal.

Let me just share briefly that one of our main goals is the equipment that we provide to the people who are registered with us. The people who are on ODSP are earning roughly $960 a month. Let me just tell you that the cost of this equipment for lifting and bathing and toileting and hospital beds has no government funding. These are essential items, and these are items that the firefighters help us provide for our clients.

How do we assure our monies are well used? We always have a professional prescribe the equipment. No funding is given without a professional prescribing it. The firefighters' dollars are very safely and wisely put to use.

The costs have increased, and our revenue has not been anywhere near this increase. Our waiting list is currently five months for people waiting for equipment. That's very serious to us. I'll give you an example of a young boy who has Duchenne muscular dystrophy. All these disorders, by the way, result in progressive muscle weakness. This young boy is about to receive his first wheelchair, a power wheelchair. It's a very traumatic and trying time for the families. The child tries a chair and he has accepted it psychologically, and then there's a five-month wait before the chair can be provided. Often, it's even longer than that by the time the government provides their funding and the vendor orders the equipment. It's a long time to wait. That's why we need the firefighters' money so desperately.

I'll just give you an example of some equipment costs. Much of our equipment for our clients is not recyclable because a curvature in the back or hips is not supported by strong muscles, so most of the equipment is custom-made for each individual, and the customizing adds a huge price to the equipment. For example, a custom commode—a commode is a chair on wheels that goes over a toilet—is $1,800. Again, that's not with any government funding. For someone who is on $960 a month, that is impossible.

We have people who want to be independent and cannot open their doors. I can tell you of a lady right now who is in her apartment. She has to tell her neighbour when she is leaving and when she is returning, to make sure that the neighbour is there, because she has no way of opening her door without an automatic door opener, which Muscular Dystrophy can provide for her. I don't know how she manages to do that, quite frankly.

We have people who can get into a nice comfy chair out of their wheelchair, but their leg muscles are such that they cannot stand up out of that chair. We have a piece of equipment called an easy-lift chair. Muscular Dystrophy and the firefighters' money provides that. That's generally anywhere from $900 to $1,000. That allows them to get out of their chair without asking the person next door or the person in the room to help them out. I wanted to share these things because these are critical pieces of equipment.

Lastly, I just want you to remember, for those of you who have children, what it was like when your child had a bath when your child was little. I am finding now that many of the parents are older. The parents are keeping their young adults in the home. Sometimes they're on medication that results in them gaining excessive weight. I'm finding that as the parents get older, they need the equipment to get the child in and out of the bathtub. We had a story last week, actually from two different families, where they are suffering and terribly afraid of hurting their own back as they lift their 19-year-old in and out of the bathtub while waiting for lifting equipment. Slippery water—your imagination doesn't have to go too far to imagine what can happen there.

This equipment that we provide is absolutely essential, and the dollars have to be available. We're indebted to the firefighters and the boot drives as, as I always say, they hold out their stinky fire boots and bring in such joy to so many people. It's absolutely wonderful. I want to say that without more revenue from the firefighters, I'm not sure what's going to happen. The story becomes more desperate each year. I look forward to this amendment. Once again, I thank you for the opportunity.

The Vice-Chair: Thank you very much. Questions from the government?

Mr. Lalonde: I really appreciate the fact that you're taking the time to come down and explain to us what effect Bill 8 is having on all those 3,800 families that you referred to.

One of the points that you also talked about was the boot drive. I remember last year we were advised that the city of Ottawa, during Santa's parade, had lost $10,000 in revenue, which was going to Muscular Dystrophy. Also, last year, in the town of Rockland, the police stopped the firefighters from collecting, even though this had been going on in many municipalities. Just last Labour Day weekend, I was in the village of Alfred, and even the OPP were collecting. In other areas, the police said they would not tolerate those boots in the middle of the street any more.

This is why it is very important. We have a bill in there that is clearly stating that it is not allowed. In some areas, especially in rural areas, the police know

practically all the firefighters, and they tolerate it until they receive a complaint. If they have a complaint, they have to stop them. That is exactly what happened last year in the town of Rockland. In other instances like the city of Ottawa, which I referred to, every year they had this boot drive during the Santa parade, but this past year they couldn't do it. I think this is why it's very important that we do amend Bill 8 to permit a non-profit organization that is recognized by the municipalities, within their own municipalities.

I'd just like to reaffirm this point that was brought up by my colleague: Municipalities would have the power to decide which organization would be allowed, because at the present time, there are other groups that are known non-profit organizations that go to different municipalities in which the municipality already has—like the Lions Club, for a good example. There could be a Lions Club from another municipality that would come and do a boot drive in other municipalities, but the municipalities would have the power to say, "Only those within our community will be allowed to do it."

The Vice-Chair: The official opposition: Mr. Martiniuk, any questions?

Mr. Martiniuk: No questions. I'd just like to thank Ms. Gray and Ms. Otter for the good work your organization and the volunteers across this province do in our communities.

The Vice-Chair: The third party: Mr. Bisson?

Mr. Bisson: A couple of things really quick, just to clarify something. The 3,800 families are just within Ontario, or including Nunavut?

Ms. Otter: There are 13 in Nunavut, so there are actually 3,800 plus 13 in Nunavut.

Mr. Bisson: Nunavut is actually part of my riding, believe it or not.

Ms. Otter: It is?

Mr. Bisson: It's James Bay and Hudson Bay, because all the islands are in Nunavut. How often do you actually get there?

Ms. Otter: That's a very good question. I could discuss it with you later at great length.

Mr. Bisson: Very good. As one who has to service that part of the world, it must be a bit of a challenge.

The other thing is, you talked about the waiting list being five months. Is that longer than what it was, let's say, five years ago?

1010

Ms. Otter: Yes, absolutely. We will not put any dollars in place until all the contributing parties have all their dollars committed and we have it on paper. Generally speaking, it was anywhere from four to six weeks.

Mr. Bisson: I have a last question and then a quick comment. Was it $1.7 million in lost revenue or $1.3 million?

Ms. Gray: It is $1.7 million; $1.3 million was as of last year, but now they are actuals.

Mr. Bisson: I saw two numbers, so I was just wondering.

To my friend Mr. Lalonde, I want to put on the record that I am of the view that this bill should spell out clearly who is able to fundraise. I don't believe we should leave that up to the municipalities. I think you're going to end up in situations where some communities, for whatever reason, support a particular activity or particular group. I think you have to have clear direction from this Legislature as to what is allowed and what is not allowed.

The Vice-Chair: Thank you very much.

TORONTO PROFESSIONAL FIRE FIGHTERS' ASSOCIATION

The Vice-Chair: Our next deputant is the Toronto Professional Fire Fighters' Association. Please come forward. Welcome. Please identify yourself.

Mr. Kevin Ashfield: Kevin Ashfield. I'm with the Toronto Professional Fire Fighters' Association. I have to apologize. Rick Mills had a family emergency and couldn't make it today.

The Vice-Chair: You have up to 20 minutes for your presentation and questions.

Mr. Ashfield: Members of the standing committee, good morning. Thanks for the opportunity to address you this morning.

I've been a firefighter with Toronto for 13 years. I've been involved with our association since 1998, when we amalgamated into one large city. I chair the fundraising and charities committee for the Toronto Professional Fire Fighters' Association.

I just want to present today on how long a history we've had with muscular dystrophy. In 1954, Dr. Green, who started Muscular Dystrophy Canada, approached the Toronto professional firefighters because he had to borrow money from the United States to start this. He approached the Toronto firefighters. They went door to door in Toronto and raised over $200,000 that year. Since 1954, Toronto firefighters have been involved every year in raising funds for muscular dystrophy. It has been a tradition that firefighters don't take lightly. We work hard at it every year. It's been something that we just do.

There has been a lot of frustration with our firefighters. When they go out on the streets, they try to do the boot tolls and they are told they can't. It's tough for us because legally we don't want to get into a position where we're arguing with the police officers of our city and the citizens over this act. The role of firefighters is to keep people safe, and safety runs into everything that we do. At each boot toll, the setup is run by firefighters who know how to conduct themselves in situations of safety and security. That always comes first, whether it's citizens or firefighters themselves.

Firefighters in Toronto and across this province have been fundraising, and that fundraising effort has been frustrated by this bill. Their efforts to raise funds have been blocked, and hearing that MDC's revenues have dropped because of this bill is disheartening to the firefighters. In 1999, the firefighters raised approximately

$50,000 to $60,000. Last year, our totals were down to $15,000.

The Toronto Professional Fire Fighters' Association supports MDC's fight to provide support to those with neuromuscular disorders and hopes that Bill 58 will pass so they can continue to do this for more and more people throughout both the province of Ontario and the rest of Canada.

I'd like to thank you today for allowing me to speak.

The Vice-Chair: Questions from the government? Mr. McMeekin.

Mr. Bisson: Sorry, Chair. Normally it goes in rotation.

Mr. McMeekin: I'm pleased to yield.

The Vice-Chair: Mr. Martiniuk?

Mr. Martiniuk: Do you use—in our municipality, the firefighters use the triangular red warning signs to let people know that there may be an obstacle up ahead.

Mr. Ashfield: Yes, we do. We put out what we call a sandwich board sign. It states that there's a voluntary boot toll ahead that's for muscular dystrophy and it's the firefighters who are raising those funds. We put them out at every boot drive we do.

Mr. Bisson: Mine is, "Keep up the good work." I think I saw you at the Toronto firefighters FIREPAC thing last Thursday, didn't I?

Mr. Ashfield: That's correct. We met the other night.

Mr. Bisson: We meet again. So keep up the good work, and hopefully, with a bit of support, we'll be able to move this forward.

Mr. Ashfield: Thank you.

Mr. McMeekin: I appreciate your coming on obviously short notice to replace another caring officer who's engaged, as most of our firefighters are throughout Ontario, in this good cause. It occurs to me that the irony here, of course, is that you guys are in harm's way all the time. There's no comparison, given what you know, to being in a structured situation where you're on a road—you probably can't get the boot to the window fast enough to get the donations that people want to give. That's not in harm's way; from my perspective, that's getting harm out of the way.

Mr. Ashfield: Correct.

Mr. McMeekin: We hear this term "collateral damage" all the time; it's an awful term. But sometimes in our enthusiasm to solve what we perceive to be a problem, the cure is worse than whatever it was we were trying to fix. I just want to be clear that your group—I think the Muscular Dystrophy Association was pretty pointed, and I wonder if you agree that this law, as previously introduced by the former government, has led directly to this loss of revenue for the associations that you support.

Mr. Ashfield: It sure has. Like I say, boot drives and boot tolls have always been there with muscular dystrophy. Whenever you see us standing out there with a boot, that money is going to muscular dystrophy; we've always left it to that. It's been a hard—well, you know what it's like in the city today. You try to raise funds. You're getting phone solicitations on a daily basis. Everybody's out there trying to raise funds for something. This is a unique thing that the firefighters have been doing since 1954, and it has really taken that away from the firefighters, their ability to raise funds. Now they're going into other areas to raise funds, which aren't as successful because there are that many groups out there looking for the same dollar from every individual.

Mr. McMeekin: So you've been robbed of a high-profile, anticipated and, at that point, predictable fundraising effort. You have been in a sense shunted off into a world where everybody's competing, and you just don't have that same profile for your cause. Is that what you're saying?

Mr. Ashfield: Correct, yes. One of the things that we've changed is that now we go to Union Station. Every year we go there the people say, "Oh, we're glad to see you back again this year, but we don't see you anywhere else." We have to explain to them that we can only do it with the permission of the people on private property now; we can't do it out in public. We explain that to them really quickly, and some of the people are really disappointed. They say, "We've seen you for 20 years out on streets doing it, and we don't see that any more. You're always in—." Like I say, now we're in Union Station on a once-a-year basis, and the people look forward to seeing us there.

Mr. McMeekin: God bless you. Keep up the good work.

Mr. Ashfield: Thank you.

The Vice-Chair: Thank you very much, Mr. Ashfield.

LONDON PROFESSIONAL FIRE FIGHTERS ASSOCIATION

The Vice-Chair: The next deputant is the London Professional Fire Fighters Association. Welcome.

Mr. Greg Knight: Good morning. My name is Greg Knight. I'm a London professional firefighter. I'm here today representing the London Professional Fire Fighters and MDC. I have been involved with MDC for over 15 years, the last 10 years as a professional firefighter with the city of London. I'm here today to speak on behalf of the London Professional Fire Fighters Association, and I am here with full support from my fire chief.

During my tenure with London, the London Professional Fire Fighters have raised in excess of $120,000 for MDC to provide equipment for persons with neuromuscular disorders, research funds for their doctors and scientists to continue their good work, and to educate the public about the devastation that this disease causes for persons with neuromuscular disorders and their families.

Since 1996, I have served as a firefighter adviser for MDC. My job as adviser entails making sure that the departments in my four counties have all the supplies they need to do their fundraising events and of course to recruit new departments to get on board and raise money for this great cause.

1020

When I would approach a new department, I would tell them, "Hey, boys, it's real easy to do. Get some boot toll signs from MDC. Get some boots from your department and hit the streets. Contact your local police and council to come up with a safe toll area, turn on the red lights on the truck and start collecting."

The boot toll is such an easy event to arrange that it was a perfect first step for new departments, and not too many said no when they were asked to participate. The funds we were able to generate across Ontario grew year after year. You can understand my frustration in trying to recruit new departments when the simplest of fundraisers was no longer available to offer them.

Unfortunately, the impact didn't stop there. Some of our departments who have supported MDC for many years were also coming to us saying, "Our municipalities decided to ban any solicitation on their streets and will no longer give us permission to do our boot tolls on the road."

For bigger cities, the firemen were able to adapt their boot toll and move it to a busy shopping mall. Revenues were lower in some cases, but they were still able to make their annual donation to their favourite cause, muscular dystrophy.

The smaller municipalities, however, didn't have this option available to them. There weren't any malls or businesses that were busy enough to make the time spent worthwhile. I have a small community close to where I live that saw their donations shrink from $4,250 annually to $100 the following year when the boot toll was shut down.

Melbourne has a population of 400 people and is located on Highway 2, just west of London. The municipality of Strathroy-Caradoc, of which Melbourne is a part, passed a bylaw a few years ago that prohibited any solicitation on its streets. When asked why they decided to go this way, they replied that they had to fall in line with the Ontario Safe Streets Act. I drive through Strathroy two or three times a week and I have yet to see a squeegee kid approach my vehicle looking for money, and yet we have a bylaw in place that restricts three fire departments from doing their good work for MDC.

The impact is the greatest when you hear a whole county of fire departments say, "We can't do our boot tolls any more." The former county of Kent, which had 12 departments fundraising for MDC, recently amalgamated into the municipality of Chatham-Kent. Chatham-Kent wouldn't approve their boot tolls any more, again stating the Safe Streets Act as the reason, and 12 departments had to come up with new, less fruitful means of raising money to make their annual contribution. It must be very frustrating for these dedicated volunteers when they see twice as much work being done to raise less than half of what they normally would raise.

When the Safe Streets Act was first out, it was enacted to curtail the actions of squeegee kids. We expressed our concerns from the very beginning to Jim Flaherty, the Solicitor General at the time. We were told not to worry, that Bill 8 wasn't going to affect us; its intent was to bring aggressive panhandling under control, not go after registered charities. We even asked the Solicitor General to send out a letter to the municipalities, clarifying the act and stating what he had told us. A letter was sent out, but it didn't seem to help our cause, and our fears are now being realized. The squeegee kids are still on the streets and the firefighters aren't. Who's losing out here? MDC and the people with neuromuscular disorders.

I'm convinced that with the amendments in Bill 58, you can still have the Safe Streets Act do its intended job, while allowing the work of firefighters to continue to help the people who need our help the most.

The fact is, revenues have decreased throughout the province of Ontario to the tune of $1.7 million. As an adviser, I'm fighting a losing battle as more and more boot tolls are shut down. We have firefighters who sit on MDC committees that once decided where the funds would be spent, what research was funded and what equipment was purchased. Now these same committees are trying to figure out how to do more with less as firefighter revenues dry up.

I hope the standing committee will agree that a well-planned-out firefighter boot toll, approved by local police and municipal council, should not be considered on a par with unorganized individuals running through traffic soliciting money. With the amendments we are supporting in Bill 58, they will no longer need to be compared.

I thank this committee for the opportunity to speak on this issue, and I respect your educated decision on this matter. I'd be happy to answer any questions you have.

The Vice-Chair: Thank you, Mr. Knight. Mr. Bisson?

Mr. Bisson: I had to laugh at your last comment, because I've got to say that sometimes it's not a very educated thought process that goes on with some of this legislation.

I think you've said it all. I don't want to repeat what's been said, but will just say that I think the bill goes in the right direction. We're going to need some amendments to make sure it's clear. We'll deal with those at clause-by-clause.

One of the points you made in your presentation that I think sums it up for me is that, if I understood you correctly, you're finding it harder to get volunteers to do boot tolls now that there is less ability to raise money. Is that what you were saying?

Mr. Knight: Well, when you go to the new departments and tell them how to do a boot drive, it's a very simple event. If you can get them to do a boot toll, even if it's a small one, once they've done it, they want to do it bigger and they want to do more events for you. So it really is a good hook to get departments involved, and once they are involved, they stay involved.

Mr. Bisson: You're saying that you still see squeegee kids: in Toronto or in London?

Mr. Knight: Pardon me?

Mr. Bisson: You were saying you still see squeegee kids but no boot tolls?

Mr. Knight: I'm not in Toronto very often, but—

Mr. Bisson: So, in Toronto?

Mr. Knight: Yes, mostly in Toronto.

Mr. Bisson: I've never seen them in London or Timmins or Sudbury.

Mr. Knight: No.

Mr. Bisson: OK.

Mr. Knight: That's why I said "Strathroy." I go through there and don't see squeegee kids.

Mr. Bisson: Thanks a lot.

Mr. Lalonde: Thank you again for taking the time. We really appreciate your involvement in the community, especially when you do take care of needy families, especially those affected by MD.

You referred to a letter that was sent by the Attorney General to the municipalities. Have you seen this letter?

Mr. Knight: I personally haven't seen it, but the MDC people told me that it was sent out.

Mr. Lalonde: It was very clear that you would be allowed to do any boot tolls on the sidewalk, not on the road or on the street. You could rest assured that if you were to stand on the sidewalk and had a car parked along the sidewalk, your collection would be very, very low. So the Attorney General kept answering the question in the House, saying, "We've never stopped firefighters from collecting for Muscular Dystrophy Canada." But what was permitted, really, was to collect from the sidewalk. He also referred to shopping centres. Yes, they were allowed to collect at shopping centre parking lots, but there was a big difference.

I remember many times where organizations were calling me, asking, "Are we allowed to do it?" I kept telling them, "No, you're not allowed to do it on the street," but I was taking the time to call the police station to tell them that this activity was going to go on in certain areas. The answer I was getting was, "We'll make sure we don't have any officers in that area." That was all right up to last year, but now that some people are aware of Bill 8, they've started to call the municipalities, and now municipalities are not permitting this type of boot toll on any streets. There are still a few going on, but we were advised by the police that this has to stop until the amendment comes into effect.

Mr. Knight: That is one of the problems we're seeing. As the years go on, you've got municipalities that are saying, "We're not going to allow this any more," and then the neighbouring municipality says, "Well, the municipality down the road just banned it, so we'd better ban it too." It's just growing and growing. Once it's banned, it's banned, and we can't get out there.

Like you said, in some small communities, everybody knows everybody. Most of them know the police, and they just go away for a few hours while we do our toll. As long as nobody calls, they don't have to act on it, and that's fine. But it's still putting us in a situation where we're out breaking the law, and that's not the image we want to portray.

The Vice-Chair: Thank you very much.

Mr. Bisson: Can I just very quickly ask a question of Mr. Lalonde?

You referred to a letter sent by the Solicitor General saying that boot tolls would be allowed, or only on sidewalks?

Mr. Lalonde: Only on sidewalks.

Mr. Bisson: That's what I thought you said.

1030

WIL VERHEYEN

The Vice-Chair: The Peterborough Citizens on Patrol is not appearing; they've cancelled.

I call upon Mr. Wil Verheyen. Welcome. Please identify yourself.

Mr. Wil Verheyen: Thank you, Mr. Chairman, for allowing me to speak here today. I am the father of a child with muscular dystrophy. My name is Wil Verheyen. I immigrated to Canada in 1974, and I have been living in Toronto for the last 24 years. Recently retired, I am active as a volunteer on various organizations, mostly related to genetic research—mainly the ethics side—muscular dystrophy, disabled people in general and other charities as well.

My wife and I have two wonderful kids: a daughter who is 16 and a son who is almost 18. My son was diagnosed with Duchenne muscular dystrophy in 1991, at the age of three and a half. My son is now in grade 12 and hopes to go to university next year to study architecture or industrial design. He is permanently in a wheelchair.

I want to explain to you a little bit what the development is in this disease. After his diagnosis, he started to fall down, sometimes unexpectedly. At the time, people said that kids would end up in a wheelchair by the age of nine and usually would not survive the late teens. Things have worked out a little bit different because of the funding that was available for research.

I will explain to you a little bit more about the disease. Duchenne muscular dystrophy is only one of approximately 100 muscular dystrophies, but it is one of the most devastating. It's also the most frequent genetic childhood disease among all races worldwide. Its occurrence among boys is one in every 3,500 births. Although women can be carriers, girls very seldom have the disease. In half of the cases, there is no family history. The disease is caused by a spontaneous mutation of the genes in the unborn child, so every family could be affected by this disease. The disease causes progressive muscle weakness because patients are missing a protein called dystrophin, which is needed to keep muscles from breaking down. All muscles are affected, including the heart and lung muscles. When my son was diagnosed, we were told that the life expectancy for most children was that they would usually not survive the late teens.

Although there is still no cure or effective treatment, the progression of the disease can be somewhat delayed by prescribing corticosteroids. The estimates are that the average patient may have an extended lifespan of two to five years, which is very important because in meantime more research can be done and maybe a cure can be

found. Some other factors, like earlier intervention with night ventilation and, later, permanent ventilation, are contributing to this.

I cannot stress enough the fact that ongoing research and better disease management have a tremendous effect on the mental well-being of patients and their families. It gives hope. Contrary to when he was diagnosed, I think that these days there is hope.

I would like to explain to you why I think that Muscular Dystrophy Canada is an absolutely essential service organization for people with muscular dystrophies in Canada and that every effort should be made to avoid its demise. It provides information to patients, parents and caregivers that clinics, pediatricians and MDs fail to provide. That's mostly due to the way our health system is working. As an example, after the diagnosis of our son, we got the only excellent information and explanation during a visit from a nurse on staff at Muscular Dystrophy Canada.

Muscular Dystrophy Canada is the only organization in Canada that covers all muscular dystrophies. There are many muscular dystrophies that only happen to a very few people in Canada, so it is very important.

In recent years, Muscular Dystrophy Canada has set up a very much needed peer support program, which has to be coordinated by an able staff member and monitored closely. My wife is very familiar with this program, as she gives moral and practical support to two families with younger Duchenne boys.

Muscular Dystrophy Canada is the only organization in Canada with a research grant program covering all muscular dystrophies. As a member of the medical and scientific advisory committee, I am familiar with the workings of this program. Muscular Dystrophy Canada is the only organization that can make sure that its services are available not only in the populated areas but also elsewhere in Canada.

I would like to point out that almost all families affected by muscular dystrophy have very limited time, opportunity and resources to participate in the fundraising aspects of Muscular Dystrophy Canada. Most families can only spend time and effort on fundraising for research as long as the child is not permanently in a wheelchair. So that is usually between the ages of three and a half and nine. Once the child stops walking, between the ages of nine and 12, the time required for care and the money required for all kinds of equipment increase tremendously. We just happened to pay for the first electric wheelchair for my son this past May, and it cost us $26,500. It is an incredible amount, and we got only $6,500 of that funded by the government.

There is an important social aspect to the lack of fundraising capabilities of the families, and I think that this is really the crux of my story to you. We, like most other families with Duchenne children—and I assume it applies also to other diseases—prefer to live a life which is as normal as possible. Our children, siblings and parents do not want to broadcast constantly what a terrible fate has hit us and what terrible future lies ahead. Our son wants to be treated at school like any other student. He just happens to be in a wheelchair.

The same applies to his social life outside of school. For most families, there is a huge financial strain to come up with the funding for all necessary equipment, of which only a very small part is being funded by the government. For our kids, leisure and sports are as important as for other kids—they are just a little bit different—but often require much more time and effort. Until it became too dangerous for him, my son was active in disabled horseback riding with CARD and skiing with Track 3, which are great programs. He now is a member of the Disabled Sailing Association of Ontario, together with other disabled people like paraplegics and people with MS. All those organizations require fundraising activities as well, so families and patients get involved as well.

Last, but not least, siblings should have a life which is not just revolving around the life of the disabled child.

All of this limits our capability to be constantly involved in fundraising in communities like schools and neighbourhoods. We are therefore extremely grateful to all those firefighters who understand this and who have been an incredible financial and moral support to us. It is my strong belief that the famous boot drives are essential to the fundraising efforts of firefighters. To keep a minimum professional staff, minimum services and a hope for a future cure through minimum research, Muscular Dystrophy cannot afford to lose the income from the boot drives. I know that the provincial Parliament never wanted to abolish the boot drives in the first place. Please consider approval of the proposed changes to the Safe Streets Act and the Highway Traffic Act to exempt registered charities.

Thank you very much.

The Vice-Chair: Thank you, Mr. Verheyen. Questions from the government?

Mr. Lalonde: Thank you very much for your involvement as a volunteer, especially with the Muscular Dystrophy organization. You do recognize the effect that this bill has on the Muscular Dystrophy campaign, especially with the firefighters' toll booth that we used to have every year.

You also mentioned that you have a son who is affected by this sickness. Have you ever benefited from the Muscular Dystrophy campaign? They don't receive any financial support from the federal or provincial government.

Mr. Verheyen: I benefit from the existence of the organization, and I see mostly the benefits to other people with muscular dystrophy diseases. As a matter of fact, I benefited the most in the beginning, because when we got a diagnosis at Sick Kids there was this very experienced neuromuscular specialist who gave us the diagnosis. We were sitting there, my wife and I. We live not too far from there, luckily enough. My son was there, being three and a half. So the specialist looked at the results of the blood test and the remarks that we had made, and he told us, "Well, he has Duchenne muscular

dystrophy." We said, "What's that?" Then he explained in very short terms how bleak the future looked. Then he asked us, while the door was open, as happens here often in our health system, "Do you need any help?" How would we know what kind of help we needed? Then he said, luckily enough, "Maybe you should contact the Muscular Dystrophy Association of Canada," as it was called then. We did, and we got the first very good information from a nurse who was very well-informed.

1040

We are so lucky that we have a lot of international contacts. Of course, the first thing that you do as parents is you try to find out what is happening elsewhere in the world. We came into contact with quite a few other organizations.

I went back to Holland, where we are from originally, and we heard that the son of good friends of my in-laws was a professor of genetics at Leiden University. He was a young professor, and I phoned him up and said, "Hello. I hear that you used to be involved in Duchenne muscular dystrophy research." He said, "Yes, but that's in the past. I don't know much about where the research is standing now, but I will get back to you." He never phoned me back. But half a year later, I got in touch with him again, and we became good friends. The reason he didn't phone back was because at the time, he could not offer us any hope. He also said, "I'm a young guy. The field of cancer and HIV/AIDS research is much more interesting for me, because there's much more funding available." I have seen exactly that internationally.

The reason we still have fairly good researchers in Canada is because we have a very good history in research: Dr. Ron Worton, who used to be head of genetics at Sick Kids' Hospital but is now in Ottawa, was one of the finders of the gene for Duchenne muscular dystrophy. He has been extremely supportive of Muscular Dystrophy Canada. It is strange, but about seven years ago, Muscular Dystrophy Canada was almost bankrupt. It was because the researchers really came together and gave so much support to Muscular Dystrophy Canada that it has survived.

Muscular Dystrophy Canada was in great danger. One of the reasons is so much competition from all other diseases has come up. They have much better funding, generally speaking, because there is a much bigger population, or they are much more open about the disease. The telethon, which used to bring in a lot of money for us—of course, we were unique. Television channels were prepared to give the service for free. Then they stopped doing that because there was much more competition, and they started to charge money. The telethon was costing us so much money that we had hardly any revenue.

I hope that I answered a few of your questions. The other thing I'm very happy about is that Muscular Dystrophy Canada's last two executive directors have been absolutely wonderful, working with very little staff and a low budget. They have been very willing to have international contacts, and I have been very happy with that as a parent who was also involved with other organizations in the field. Thank you.

Mr. Lalonde: Thanks again. It's very nice to see that a young, retired lawyer is giving some of his free time as a volunteer to a charitable organization such as Muscular Dystrophy Canada.

The Vice-Chair: Mr. Martiniuk.

Mr. Martiniuk: I'd just like to thank you for helping the committee in its deliberations.

The Vice-Chair: Mr. Bisson.

Mr. Bisson: I'm not sure I understood what you said in one of your comments, and I just want to make sure. I'll say it the way I wrote it and understood it. I think what you said was, "Siblings should have a life that is not totally consumed by MS siblings." I think I know what you're getting at, but I need you to go beyond that, please.

Mr. Verheyen: I don't know whether you have the text of my presentation, but the life of a family should not be built around the disease of the sick child. One of the first things I heard, in Europe actually, after the diagnosis was, "Please don't put your child with Duchenne muscular dystrophy in the same school as the other kid," because then during the school day the healthy child will be confronted with the fact of the progressiveness of this disease, what it causes to her brother; in this case, when her brother starts to fall more and more, other children start to talk about it.

I have seen family situations that are really traumatic, especially when you have younger children. They sometimes feel left out because there's much more attention paid to the sick child. We have seen that happening. Actually, very good friends of ours have a boy with Duchenne, and the other boy ended up on the streets. He became a customer of Covenant House. I don't want to blame it on the disease, but it is very hard to manage, and I don't want to blame it on the parents either.

It's a very delicate situation at home and we are in the lucky circumstance that our kids are fantastic friends. My son cannot do much any more. I had to take him out of bed this morning. For example, I have to kind of slide him over to the side of the bed and then I have to lift him up. That means that if only one person is at home with him—when my wife is not home—I have to make sure that he is never left alone. If I'm alone with him, I want to make sure I have a telephone next to his bed so that if something were to happen to me, or I did not wake up—you never know—he would be able to call 911 and our good friends would show up. It's the small things, but it's very important that we live our normal lives.

My son can still play the guitar—incredible. He plays beautifully. I wish he would have been able to play for Free the Children. I videotaped a performance for Free the Children, a fundraiser last night in the Great Hall here in Toronto on Queen Street. My son had been asked to play, but it's not accessible. This is just a fundraiser for very young children in developing countries. Craig Kielburger started this organization, Free the Children, to come up with better conditions for them. My son was

also in the Terry Fox Run in his wheelchair last week. It's easier for him to do fundraisers for those things than for his own cause.

Mr. Bisson: I thank you and wish your family well.

The Vice-Chair: Thank you very much, Mr. Verheyen.

DANIELLE CAMPO

The Vice-Chair: The next deputant is Ms. Danielle Campo. Welcome.

Ms. Danielle Campo: Good morning. I am the national ambassador for muscular dystrophy. That's kind of why they asked me to come here today.

A little background information on myself: I am a gold medal Paralympian from Sydney and a bronze medal Paralympian from Athens. In 2001, I was a recipient of the Order of Ontario and was just recently given the Terry Fox Humanitarian Award. I could probably talk about myself for 20 minutes, so I'll go on.

I do have muscular dystrophy fibrodisproportion. When you look at me, a lot of people say, "You can't tell you have muscular dystrophy." I would like you today not to put my face to someone living with muscular dystrophy. I'm a very fortunate case. I have found that I can handle my muscular dystrophy through exercise, by staying in shape and swimming, making sure my muscles stay strong.

Some things I've had to go through growing up: There's always—like you've heard today—that fight to be normal and what is normal, making sure there's enough accessibility so that I can go to school just like every other 20-year-old, that I could go through grade school and go through high school the same as everyone else.

Some things that my parents went through and why muscular dystrophy is so important: I was diagnosed at two. I come from a family of two brothers who are very active in sports. I was the first girl. My parents were told when I was two years old that I had muscular dystrophy. The first thing you think of is, "Muscular dystrophy Duchenne, what does her future look like?" Because of muscular dystrophy and all the work the firefighters do raising money, there was hope given to my parents. This wasn't a death sentence. This was just something else we have to deal with.

In my job as the national ambassador for muscular dystrophy, I get to speak on behalf of the clients. So I'm here today to represent a lot of them for whom it's too difficult to come here and talk to you. I don't know if you realize that coming into your building there are quite a few stairs you have to get up just to get in here. For someone living with muscular dystrophy, that's a huge challenge. So I come and I talk on behalf of them.

Just recently, I met a little boy who was five years old, who was just diagnosed with Duchenne muscular dystrophy. His parents said to me, "What does that mean? We know that 99% of the time he won't make it to his early teens." I said, "You're right. He might not live that long life that you saw the first time when you held him in your arms, but you have the firefighters behind you."

The firefighters are so much more than standing on a street collecting money in a boot; for me, the firefighters bring hope. I'm 20 years old right now, and I'm able to go to college; I'm able to live a normal life. What will I be like when I'm 50? I don't know, but I know that with the firefighters behind me, I can hope for a normal life until I'm 80. But some of these kids can't. Some of these kids' reality of their disorder is that they will die in the end, due to this disease.

What I ask you today is to look at these firefighters as not collecting just another dollar for charity; they're holding the future of every child who has a neuromuscular disorder in their hands. By them putting their boot to the car and collecting money, I know that a researcher is going to go out and find a cure. Maybe in five years, maybe tomorrow we'll have a cure for this and we won't have to sit in front of you, asking you to allow this bill to be passed. But in the meantime, I ask you to really consider passing this bill, because you are holding the future of so many young children who can say, "Tomorrow I'm going to college because the firefighters are raising money."

That's basically all I have to say. If you have any questions, I'd love to answer them.

The Vice-Chair: Thank you very much. Mr. Martiniuk?

Mr. Martiniuk: No questions, thank you.

The Vice-Chair: Mr. Bisson?

Mr. Bisson: What a great spokesman.

Ms. Campo: Thank you.

Mr. Bisson: Keep it up, and, yes, we will do what we can to make sure that this does pass.

The Chair: The government side, Mr. Lalonde.

Mr. Lalonde: I have to say that, vous êtes courageuse. You have courage to have gone through what you have told us about up to the present time. You say that the future depends in part on the fundraising from the boot tolls that were organized by the firefighters. I really believe in what you have said. The revenue that was organized by the firefighters has been affected ever since Bill 8 was introduced in the House. I commend you for taking the time to come over and address this committee, because I really feel that it is very important, especially when we hear from a girl of your calibre. Thank you very much.

Ms. Campo: Thank you.

The Vice-Chair: Thank you very much, Ms. Campo. I think I can probably say, on behalf of the members as well, that you have made us very proud.

Ms. Campo: Thank you very much.

Mr. McMeekin: Hope is on the way.

Ms. Campo: Thanks.

The Vice-Chair: If there are no further deputations, the committee is adjourned until 9:30—

Mr. Martiniuk: Excuse me; could I ask a question to Mr. Lalonde and to legislative counsel? Could not my particular concerns be addressed by just removing any

reference to "non-profit organization" and substituting "charitable organization"? I would be very happy with that, because I think that we are trying to encourage charities, such as the one we have heard from today, rather than non-profit clubs, which could be anyone. Just a suggestion.

Mr. Lalonde: I would recommend, Mr. Martiniuk, that you prepare an amendment to that effect, and it could be discussed at the clause-by-clause session.

The Vice-Chair: Thank you very much, members of the public. Committee members, you know that the committee is adjourned until 9:30 on Thursday, September 22, 2005.

The committee adjourned at 1054.

CONTENTS

Tuesday 20 September 2005

T-14

ISSN 1180-4319

Legislative Assembly
of Ontario

First Intersession, 38th Parliament

Assemblée législative
de l'Ontario

Première intersession, 38e législature

Official Report of Debates (Hansard)

Thursday 22 September 2005

Journal des débats (Hansard)

Jeudi 22 septembre 2005

Standing committee on regulations and private bills

Comité permanent des règlements et des projets de loi d'intérêt privé

Highway Traffic Amendment Act
(Licence Suspensions), 2005

Loi de 2005 modifiant
le Code de la route
(suspensions de permis)

Chair: Marilyn Churley
Clerk: Tonia Grannum

Présidente : Marilyn Churley
Greffière : Tonia Grannum

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Copies of Hansard

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

Exemplaires du Journal

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Thursday 22 September 2005

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Jeudi 22 septembre 2005

The committee met at 0930 in committee room 1.

HIGHWAY TRAFFIC AMENDMENT ACT (LICENCE SUSPENSIONS), 2005

LOI DE 2005 MODIFIANT LE CODE DE LA ROUTE (SUSPENSIONS DE PERMIS)

Consideration of Bill 209, An Act to amend the Highway Traffic Act with respect to the suspension of drivers' licences / Projet de loi 209, Loi modifiant le Code de la route en ce qui concerne les suspensions de permis de conduire.

The Acting Chair (Mr. Khalil Ramal): Good morning, everyone. We are here today for Bill 209. Mr. Zimmer is the sponsor of this bill.

Mr. Zimmer, you have 15 minutes to present to the committee. Then we move to the opposition and the government side, and the third party, of course. Mr. Zimmer, you have the floor.

Mr. David Zimmer (Willowdale): Thank you, Mr. Chair. It's my pleasure and honour to be able to introduce Bill 209, a bill having to do with boat safety and alcohol. The bill is aimed at boat safety and saving lives. This bill is about giving law enforcement the tools to address the problem of drinking and boat operation. It's about ensuring that the millions of tourists and Ontario residents who enjoy boating and water recreational activities can go out on the waterways without having to fear for their lives or safety because of drinking and boating.

We suspend drivers' licences for offences such as nonpayment of child support and operation of snowmobiles. There is no reason why we shouldn't do the same for boating offences involving alcohol. We have a responsibility as legislators for boat safety here in Ontario.

Through the hard work of organizations like Mothers Against Drunk Driving, law enforcement agencies, boat operators' associations and cottage associations, the message has been clear: If you drink, don't drive. The message should also be clear: If you boat, don't drink. As well, with respect to the operation of automobiles and alcohol, through various strategic campaigns over the last years—advertisements, RIDE programs, public awareness programs—the culture of Ontario has been changed with respect to impaired driving and the operation of motor vehicles. But the same hasn't been true of the operation of motorboats and alcohol. This is an area which has long been ignored. Driving an automobile or a snowmobile while impaired has been deemed unacceptable behaviour, but operating a motorboat on our waterways seems to have escaped this type of labelling.

Every boating season there are serious accidents involving alcohol and boating. Lives are lost; people are injured. We have to get the message out that alcohol and boating is no less dangerous than operating a car under the influence of alcohol. Most boaters don't seem to understand the effect of the sun, the wind, the feeling of exhilaration when you're out on the open water in a boat. The attitude that it's acceptable to operate a motor vessel while impaired seems to be prevalent in the boating community.

Over the summer break, I had the opportunity to visit many lakes, marinas, police units, cottage associations and boating associations to get a sense out there "on the water," if you will, what the problem is. I've been to Peel, Bracebridge, Orillia, Lake Couchiching and other waterways. The message out there on the water, to use the expression, is clear: We need to change the culture. We need to change the culture so that everybody has the same sense that you ought not to drive a boat under the influence of alcohol, to get the same idea across that people have that you don't operate a car under the influence of alcohol.

It was amazing. I was out there talking to people, and the same people who would no more, in a million years, get behind the wheel of a car when they were drinking or under the influence of alcohol don't seem to have the same intuitive prohibition in their systems about getting behind the wheel of a boat. That's something that we've got to change.

The OPP marine units keep extensive statistics on alcohol and boating offences. I can tell you that a review of those statistics would indicate that 66% of boaters in a recent Transport Canada report acknowledged that they drink alcohol while boating, and 37% of boaters admit to consuming alcohol on every recreational boat trip. Alcohol is a factor in 40% of recreational boating fatalities. Between April and December 2003, OPP marine units issued 1,923 charges and warnings related to alcohol offences on the waterways. During that same six-month period, 33 impaired boating charges or warnings were

issued. Another 33 Criminal Code charges or warnings involving alcohol and boat use were issued.

The statistics about the dangers of impaired boating are compelling by themselves, but it's quite easy to be detached about the numbers. It's difficult to ignore the personal tragedies faced by families when their loved ones are involved in boating accidents involving alcohol. We're going to hear from a witness, I expect, in a few minutes—Mr. Ken Crompton—who can relate the personal tragedy that always follows from boating accidents involving alcohol. I want to take this moment to recognize Ken Crompton, who has worked with me closely on bringing this bill forward.

So, what will the bill do? Well, the bill will do a couple of things. The premise of the bill is that there shouldn't be a distinction between the impaired driver of an automobile—how they're treated—and the impaired operator of a motorized boat. When an individual chooses to drink and drive any vehicle—an automobile or a boat—they become a weapon: They put their safety at risk; they put the safety of other users of our waterways at risk. In short, what Bill 209 will do, if passed, is it'll amend the Highway Traffic Act so that penalties that apply to individuals convicted of impaired driving of an automobile will also apply to boaters who drive powered motor vessels while impaired.

It's important that there be an effective deterrent that will prevent boaters from drinking in the first place. As well, theoretically, if an individual driving a motor vessel while impaired is brought ashore by the local police—so they've been stopped out there on the water operating a boat under the use of alcohol—there's nothing to prevent them from getting in their car once they're back at shore and driving away. That just doesn't make sense. This bill is about giving law-enforcement authorities the tools to address this problem. It's about ensuring that the millions of tourists and Ontario residents who enjoy our waterways can continue to do so in safety.

So technically, if the bill is passed, this is what'll happen:

1. It would suspend the drivers' licences of individuals convicted of an alcohol-related offence while operating a motor vessel.

2. It would give law enforcement authorities the ability to enact 12-hour driving suspensions if you're stopped out there on the lake and you're involved in an alcohol boating offence. The registrar of motor vehicles would be able to enact an immediate 90-day suspension of your driver's licence.

This legislation is long overdue. It's not the first time it has been introduced. It has been around a few times before as a private member's bill but has died on various order papers. My sense is—speaking to my colleagues and all parties in the Legislature—that it enjoys support from all parties, and there's broad support out there in the community. I was told by one of my researchers this morning that in a recent poll—and I think it just came out yesterday; I don't have the details of the poll other than the conclusion—80% of the folks polled out there in the province support what Bill 209 is trying to achieve.

0940

As a province, we suspend drivers' licences for a variety of things. If you're not up to date on your family support obligations, you can lose your licence. If you're operating a snowmobile under the influence of alcohol, the suspension provisions under the Ontario Highway Traffic Act apply on conviction. If we're telling people that if they get out there and drive a car under the influence of alcohol these penalties relating to their Ontario driver's licence are going to kick in, or if they get out there and are operating a snowmobile these penalties are going to kick in—and that's the law now—why wouldn't we logically extend it to the operation of a motorboat on our waterways?

Just a quick comment about the benefits of the legislation:

In my view, the legislation would offer a substantial deterrent to motorboat operation under the influence of alcohol. From speaking to all the stakeholders out there this summer, and to boat operators themselves, my sense is that they place great, great value on their highway driving privileges. If there was a connection that linked alcohol and boating offences to driving privileges on our highways, it would be a great deterrent. People want that Ontario driver's licence, and if that means they're going to be very careful about drinking and operating boats, that's a good effect.

Obviously, it's going to reduce serious injury and death. As I said earlier, most boating fatalities involve alcohol.

It's revenue-positive, in the sense that the costs incurred with health care, investigations and all the things that follow when there is a serious boating accident will be less.

More importantly, it's another extension of this idea of RIDE programs, Mothers Against Drunk Driving and all the other stakeholders who are trying to cut down on the use of alcohol and vehicle offences. If we extend it to include boats as well as snowmobiles and cars, that's a good thing.

Why should we implement Bill 209? Well, I can tell you that when you dig through the material and the research, there is a correlation: The same kind of person who might operate a car under the influence of alcohol might, even more so, operate a boat under the influence of alcohol.

This is not a bill that's going to require a huge addition of resources. It's not going to require an increase in enforcement officers, crown attorneys or Ministry of Transportation personnel or other bureaucracy to manage. It's all in place. They do it now for snowmobiles and cars; we're just extending the concept.

Importantly, the amendments proposed by Bill 209 do not create a new offence; they just create a new set of penalties.

Any suggestion that this is a revenue grab is not borne out by the facts. This is not about generating revenue; it's about creating the conditions for boat safety.

The Acting Chair: Thank you, Mr. Zimmer. Now it's time for the opposition. You have five minutes, sir.

Mr. Gerry Martiniuk (Cambridge): Thank you, Chair. I won't take that long, for sure.

I'd like to compliment David Zimmer on bringing forth this bill. I, like him, have always been somewhat bemused at the double standard we have in our society where, through the efforts of MADD and many other organizations, we frown on—we more than frown on; we consider impaired driving of a a motor vehicle a criminal offence, as boating with a drink is sort of OK.

I compliment you again. I think this bill sends a clear message to those members of our society who think boating and drinking are OK. I think it will have the required effect.

Ms. Shelley Martel (Nickel Belt): I will be brief as well. Let me just say, from my perspective and the perspective of the members of the NDP caucus, drinking and driving is a crime. That is the case whether you're operating a motor vehicle, whether you're driving a snowmobile or whether you're driving a motorized boat. The distinction from "vehicle" that now exists in the law is a distinction that has to end. The overwhelming majority of the population does believe that drinking and driving is a crime and want to see tough penalties, tough fines and licences revoked in order to fully change the culture so that it is seen as crime and not as an acceptable part of people's social behaviour.

We are in support of the bill. We trust that it will also act as a deterrent, which may be its most important feature. I hope that this time, because there have been other bills before us, we might actually be able to get this passed.

I would just in closing want to thank Mr. Crompton, who is here today. I saw a copy of the letter that he sent to all three party leaders. It was given to me because I was going to be sitting on this committee. I thank you very much for being here and for sharing your personal story with us. It couldn't have been easy, but there will hopefully be something very positive coming out of what was a great personal tragedy to you and your family.

The Acting Chair: Do you wish to answer now or do you want to listen to the witness first, and then we can respond, if you want?

Mr. Zimmer: Perhaps we can hear from any delegations or witnesses.

The Acting Chair: OK.

KEN CROMPTON

The Acting Chair: Mr. Ken Crompton, you have 15 minutes. You can go through the presentation for 15 minutes or you can split it 50-50, presentation and answering questions. It's up to you.

Mr. Ken Crompton: I'd like to thank the Chair and the committee for the opportunity to speak today. I have a personal story that I believe clearly indicates the need for the changes that are being proposed. I've put something together to give you a little bit of background with respect to my son Pete, but this is one of the situations where, as a parent, it's obviously your worst nightmare.

Pete, at the time of his death, was 27. His death occurred on July 13, 2003, in Lake Joseph. It was essentially daylight at the time of the accident. Pete was a passenger sitting at the stern of the boat. He was accompanied by a number of his friends and, in this case, his brother. Pete was six foot, three inches. He was sitting at the stern in the middle, between two friends, so he had the motor housing directly in front of him. The boat that struck Pete came from the same cottage as Pete's boat. They were simply going out 1,000 feet to watch the sunrise. It was light at the time, but the sun was coming because the cottage was blocked out by the east hill.

Everybody in the boat that Pete was in watched the other boat come. They were expecting it to throttle back; it didn't. When the driver of the boat Pete was in realized that it wasn't going to stop, he hit the throttle and exposed the stern. The offending boat came over the left port at the stern, right over top, and came down on the starboard side.

Pete's two friends, sitting on either side, were able to go along the gunwale between the sides. Pete was trapped. So he gets—excuse me. The hull and the prop hit him, so he died of massive injuries caused by the boat. His friend to his right: As he dived out of the way, the prop crushed his pelvis and broke both tibial plateaus, and he has arch scarring from the top of his back down to his ankles. He is a very resilient individual and he's coming along, but he still has residual problems that are going to be with him for the rest of his life.

0950

Pete was a graduate of Guelph. He was an accomplished athlete. He'd been on the Ontario Ski Team, he was a low-handicap golfer, he sailed, windsurfed and surfed on four continents. At the time of his death, he was an investment property sales representative with CB Richard Ellis, which is the largest North American real estate company.

This has more than an impact on my wife and my son Jeff. There were 1,500 people at Pete's funeral, which attests to his many friendships. You'd appreciate this, Ms. Martel. He was a tree planter for years with his brother. I'm from the north; I'm from Thunder Bay. There's a Web site that his friends set up for him and there are still messages coming in on that Web site today.

In any event, the driver of the boat was charged with eight offences, including three offences relating to impaired driving. After numerous court appearances—and I must commend the police investigation in this case. There were 43 witnesses. The detachment in Parry Sound did a spectacular job, P.C. Nicksy in particular. There was a plea of guilty to criminal negligence causing death and criminal negligence causing bodily injury. It didn't go to either a preliminary hearing or a trial. There was a plea and there was an 18-month conditional sentence.

The importance of this amendment, other than—obviously, I agree with David's comments and what others have said of the importance. There's one objective here, essentially. It's to cause an amendment that will help prevent further serious injury and death. It is as simple as that. If you talk to the enforcement authorities,

they all support the need. Waterways are very difficult to police because there are no designated routes. They're not armed with the same type of thing they can do on the highway, where they can set up photo radar on some occasions or they have patrols out. It's more difficult in the water because of the routes, and people aren't experienced. You don't even have to have a licence to drive a boat until, I think, September 1, 2009. The only things that are licensed now are boats under four metres, which pick up the Sea-Doos but not the big power boats. So this is an area that cries out for some additional deterrents, and this is a substantial deterrent.

Let me put it on a personal basis. Although I can't establish this because it came to me through a different source, I know that the driver of the boat that killed Pete could not get insurance to drive a boat. The reason he couldn't get it was because he had a lengthy car driving record. So the insurers are recognizing the correlation between using your rights and privileges to drive an automobile and those with a boat. The protection of the public, the citizens you represent, is important in this case. Under the Marine Liability Act, unlike the Highway Traffic Act, the owner of a boat is not vicariously liable, so you have to establish negligence on the owner of the boat before you recover. Back in the centuries when boats used to sail away and the owner wouldn't see the master for six months—that has stayed with us. So there's a need, I say, to have this further protection.

One of the things we all know people respond to is if they may lose their licence and they may not be able to get insurance, or, if they do get it, they're going to pay a lot more for it. That in itself is a deterrent.

Obviously, the reduction of injuries is important. The revenue-positive that David had mentioned—there are always, as in Pete's case, lengthy investigations, time-consuming court appearances. Now you've got his friend seriously injured: two weeks in Sunnybrook, six weeks in St. Joseph rehab. I don't know whether he's still having treatment, but he still has residual complaints. All of that is on the public purse. So if you reduce this, it's revenue-positive.

I know the struggles you all go through as members to try and answer to the public's concerns, but importantly, this is not a new offence. You're not creating a new offence. This offence is under the Criminal Code. So if there's a justification for a conviction for alcohol, it's under the Criminal Code. All you're doing is a logical extension of the penalty. The 12-hour suspension, for example: Police officers have told me, "We stop somebody on the water. We know they've been drinking. The guy parks his boat at the marina, gets into his car and drives away." This way, he's going to go to their detachment in 12 hours and get his licence back. If that doesn't wake people up, nothing will.

So all of this, in the end, encourages boating. The crazy part about this amendment is that more people will use the waterways. More tourists will be here. People will feel less at risk. If you talk to cottagers, they don't drive their boats at night because they're fearful of people on the water.

It's an interesting attitude change that has to occur. Friends of mine say that their daughters will never get into a car with somebody who's drinking, but they'll get into a boat. It makes no sense, but it's because we haven't developed this attitude change that will come about.

I think what David has done, the press that's been received this year, and really through the help of Pete's friends, has been helpful. People are talking about this. I've had a lot of people come up to me and talk about it. You can't find anybody against it. The reason is, the person against it has to be in favour of breaching the provisions of the Criminal Code. So nobody is going to openly say, "I'm against it." This is very important.

I'm trying to make some sense out of Pete's death for myself, for my family, for his friends, so as a result, I spent this time on this. One of the things that's happened—and I think we're all stakeholders now. David is doing the same thing. I really appreciate his support in this, but he's reading the papers the same way I am now: Where's the boating? There's a boating death; there's a drowning. It's alcohol-related.

What I fear is that I'm not going to have done enough to make this happen, and I don't want to feel responsible. I know no one in this room wants to feel responsible or to put somebody else in the position that my family is in. So I'm here, obviously, to support this. I think it makes sense.

It's funny. Walking up—one of my former partners sits on the Court of Appeal. He asked me where I was going, and I told him I was going here. He said, "How can this not happen?" One of Pete's friends, in a kind way, said, "If this legislation had been passed in 1998, do you think Pete's accident"—it's not an accident—"his death would have occurred?" I said, "I can't let my mind go there, because that's too difficult." But I certainly will not sit back and watch others have the same experience unless I feel I've made every effort to have this legislation passed.

1000

I thank you for your time. I apologize; this is the first time I've been this emotional, but maybe that simply indicates how important this is.

The Acting Chair: Thank you, Mr. Crompton.

The official opposition.

Mr. Martiniuk: My condolences, Mr. Crompton. I do admire your bravery in assisting this committee today. I certainly am in support of this bill.

Mr. Crompton: Thank you.

The Acting Chair: The third party.

Ms. Martel: Thank you for being here. Maybe I'll just make a couple of points. I don't have questions; I read your correspondence and I've heard you repeat much of what was in the correspondence.

You talked about the power of the bill to act as a deterrent because people then would really have to deal with significant insurance costs. In many cases it becomes even more important as a deterrent because they lose their licence, and that may also be a loss of their

employment. So there is the real power with respect to the deterrent, which is the same reason why the former government, I think, allowed for driver's licence suspensions if you don't pay your family support or your child support, because that might hit you very significantly economically and force you to respond in a way that you might not have otherwise.

The second point is that when you talked about friends who had children—daughters, sons—who wouldn't think of getting into a car where there was an impaired driver but would not have a second thought to get into a boat where a driver had been drinking, it just reminds me—at one point we dealt with snowmobiles. We did that because machines are so powerful now. They're just so incredible to try to handle, to manoeuvre. You can get very seriously hurt at an open waterway. That possibility to be hurt just doesn't exist on a roadway, because you're limited by shoulders, trees or whatever. The waterway, in the same way that your son died, very clearly shows you how easily that can happen. Given the power of these vehicles now, the damage that can be done by someone who is operating such a vehicle while impaired is really clear to me and, I hope, really clear to most of the general public. That's the second reason why people should really think again about why it is just the same to get into a car with someone who is drunk as it is to get into a boat with someone who is drunk. It's absolutely the same, and the consequences just as horrific.

Finally, when you tell the committee that you are afraid you won't have done enough, I just really have to reassure you. I read the correspondence before the committee hearings. I was very moved by it. Frankly, I think it takes an incredible amount of courage for a parent who has suffered an enormous tragedy to try to turn that tragedy into something positive. You didn't have to be here today. You didn't have to do the work with Mr. Zimmer leading up to today. You didn't have to be public, because what happened was very public indeed. But you've made that decision, and I just have to say to you that I'm very impressed and very moved by your courage. So I think you have done more than enough, and it is my hope that we'll be able to pass the bill. While we can't change what has happened, we'll give you some solace that your actions will prevent further tragedy and further death.

Thank you very much for coming today.

Mr. Crompton: Thank you. The interesting thing in what you're talking about is the power boats; obviously, the power is an enormous power. But one of the things I've found is that somebody who has limited experience can go to a marina and rent a big boat. All he has to do is have some idea about the waterways and know a little bit about safety; he doesn't have to have a licence, and he's suddenly out on the waterway. If you talk to people who are experienced boaters, you've got people passing on the port side when they should be on the starboard side, and people crossing channels and wakes. As you've described, on the highways there's a lot been done—there's still a lot more to do—to regulate and control highway use. But boating use is a problem; it has other serious implications. Thank you for that.

The Acting Chair: Mr. Rinaldi.

Mr. Lou Rinaldi (Northumberland): Mr. Crompton, thank you for being here today. Much has been said already by previous speakers. I think what you're doing is certainly a plus for society. Whatever this ends up being at the end of the day that we don't know of now, I think just the awareness you've raised is phenomenal. Thank you for your courage. I can appreciate being a parent and a grandparent. I have a son who got hurt during a snowmobile accident, just a broken leg, and I know how traumatic that was for my wife, for me, for my daughter-in-law and for the rest of the family. What you've experienced, I don't think we can appreciate it, so thank you for being here.

A question to Mr. Zimmer on this—and hopefully we deal through regulations or somewhere if this bill goes through. I have two points. Where does this impact, for example, if the operator of a motorized vessel doesn't have a licence? Will they fall under the same category as somebody driving a car without a driver's licence? That's number one. Second, possession of open alcohol in the vessel within reach of the operator—I'm not sure what the regulations are. If you're in a motor vehicle, I know that you cannot have an open bottle of beer within reach, or whatever the regulations are, even though you haven't been drinking. Will this apply to the vessel as well? In a sense that's very important, for them to look at something, and we need to be a little bit more comprehensive.

Mr. Zimmer: Obviously, that's a problem we have. Right now, the analogy is that if someone who does not have an Ontario driver's licence and has never had one is stopped for impaired driving and convicted, there's no licence to suspend. My sense is that probably judges take that into account when they're assessing any other penalty in addition to the suspension of the driver's licence. That's something I'd have to check. I'm assuming that if you were eligible for a driver's licence but didn't have one—you just hadn't applied for one—you wouldn't be able to get one. But I'm not sure of that and I'll get an answer to that. It's a good question.

Mr. Crompton, who I know is an experienced motor vehicle lawyer, knows.

Mr. Crompton: The second point you raise is an interesting one, and I don't want to go there today. I'm not asking the committee today, nor is David. If you have open alcohol in a vehicle or in a boat, the charges that are laid are under the Liquor Licence Act. This is an Ontario statute, where I think section 32(3) says that you're subject to an offence, and it's punishable by a fine. I don't know whether you read a Focus article in the Globe last year on my son, which was followed the next weekend by a boat patrol by P.C. Moffatt. The caption by the writer at the Globe is, "OPP Go Fishing for Boneheads," but if you read the article—and David has a copy—it says that the experience that OPP officers have when approaching a boat is that they see glasses going over the side, they see cans in the water, so they are charging

people with environmental offences and under the Liquor Licence Act. But the way to strengthen the liquor licence provisions, in my view—the demerit point system is a regulation to the Highway Traffic Act, regulation 578. That simply sets out the number of demerit points for different offences. All that has to be done to the demerit point regulation is to add the Liquor Licence Act, and put four demerit points for having open booze in a car or in a boat. Already in the act you'll see, for stop signs, a demerit point system recognizes municipal and railway offences, as well as Highway Traffic Act offences, so it's already there.

1010

I'm sure—no surprise—we've all been stopped for various things by the police, but the majority of people worry more about a demerit point than they do a fine. If you read the OPP article, there's a guy with a $5-million cottage. What does he care about a $215 fine? But when he's got a combination of things on his licence, he's got to do two things. Under the Highway Traffic Act, we accumulate points for two years; insurers keep it for three years. This is how the insurance industry can help, by hitting these people with serious premium increases. That's the deterrent value. That may be for another day but, as I understand it, an order in council can do that.

With respect to the licence issue, as I understand it now, if there's a conviction for operation of a vessel, there's a suspension of your privileges to operate the vessel. Most of those occur during the winter. The one thing important about the statistics that David is referring to is that we're talking about a three- to four-month boating season. We are the third-largest jurisdiction in terms of boating deaths in North America; Florida and Texas are ahead of us. A whole bunch of things will go with this, and provinces can't do it because it's the federal government that has to be involved because it's navigable waters and all those things.

Some jurisdictions in the United States have reduced the 0.08 impairment, as we have under the Criminal Code, to something less because it takes one third the amount of alcohol to create the same conditions as driving a car if you're driving a boat because of the sun, the motion, the vibration, the wind and all those things. Really, there's an argument that it is so much more critical to do something about alcohol abuse on the water than it is even in a car. Statistically, that information is there, and jurisdictions in the States are trying to respond to it.

The crazy part of this, again—and then I'll stop—is this is good for boating; this is good for tourism; this is good for everything.

The Acting Chair: Mr. Craitor, you have two minutes if you want to ask a question.

Mr. Kim Craitor (Niagara Falls): I have just two very quick comments. As everyone else in this room, I send my condolences and my congratulations that you have the courage to be here. I just couldn't imagine it as a parent; I just couldn't.

I want to thank you. I represent the riding of Niagara Falls, Niagara-on-the Lake and all the way up to Fort Erie. Boats are a way of life, whether they're Americans or Canadians. Our waterways are inundated all the time. We had a public meeting just two weeks ago because of safety. We had a death in our community. It wasn't alcohol-related.

I'm really familiar with the bill, but I want to thank you because there are a number of things that hadn't even crossed my mind. The alcohol just didn't cross my mind. We see it in our community, because I go down there and watch people pushing off their boats and there's a case of beer in it. It's just sort of normal; they do it and nobody thinks anything of it. But, for example, what you just said: Less alcohol is required to have an impact on a boat driver than even on an automobile driver.

The point I was going to make was to thank you, because we're trying to come up with some solutions in our own community to deal with making our waterways safer, and I'm certainly going to support this bill. In fact, I'm going to go back to my community and to our council there and make them aware of your son and the tragedy that has occurred and make sure that we get the support from our own local councils—and I have three of them—to endorse the bill so we can show how significant it is within our own community. So I just want to say thanks.

Mr. Crompton: Thank you.

Mrs. Maria Van Bommel (Lambton–Kent–Middlesex): Thank you, Mr. Crompton. I first of all want to extend my sympathies to you and your wife and your son Jeff. I certainly can hear that this loss has left a great, gaping hole in your family.

One thing I want to say about this—I too have a riding that abuts Lake Huron, where there's a lot of boating. We see there too, as has anyone who has been on the water or even stood on the lakeshore and watched, some of the reckless boating that goes on. Your first thought is for the people who are out there who might be hurt by it, but also for the person who is being reckless, because they will do some harm to themselves too. We all know that's possible.

What we're doing currently is sending mixed messages. We're saying it's OK to be on the water and drinking, but when you get off the boat and get in your car, all of a sudden you know you're not supposed to be drinking. We need to be consistent in our messages, especially for our young people, our teenagers. They need to hear consistently that drinking and the operation of anything—and I extend that to any industry; we all know you wouldn't go to work drunk and operate heavy power equipment. That endangers yourself and your co-workers. We wouldn't be drunk and operate a tractor on the farm. There's no reason that this shouldn't be extended to when you're off land and on water. I think we need to put an end to the mixed messages we're sending to the public, especially to our young people.

Mr. Crompton: Just on that point—

The Acting Chair: If you would, just a quick one.

Mr. Crompton: Just one second. On the point you both raised, if you look at the letter from the Georgian Bay Association—I think David attached it to his

material—that association represents 4,200 vacation cottagers, but those cottagers, as I understand it, are also travelling from their homes to work. They understand that the effect of this amendment is that they'd lose their driver's licence, but they support it. People everywhere on the water are supporting this, so it's crazy not to have it passed.

The Acting Chair: Thank you, Mr. Crompton, and thank you, committee and staff.

The committee is adjourned until Tuesday, September 27, 2005, at 9:30 a.m. in Jordan, Ontario.

The committee adjourned at 1017.

CONTENTS

Thursday 22 September 2005

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Chair / Présidente
Ms. Marilyn Churley (Toronto–Danforth ND)

Vice-Chair / Vice-Président
Mr. Tony C. Wong (Markham L)

Mr. Gilles Bisson (Timmins–James Bay / Timmins–Baie James ND)
Ms. Marilyn Churley (Toronto–Danforth ND)
Mr. Kim Craitor (Niagara Falls L)
Mr. Kuldip Kular (Bramalea–Gore–Malton–Springdale L)
Mr. Gerry Martiniuk (Cambridge PC)
Mr. Bill Murdoch (Bruce–Grey–Owen Sound PC)
Mr. Khalil Ramal (London–Fanshawe L)
Mrs. Maria Van Bommel (Lambton–Kent–Middlesex L)
Mr. Tony C. Wong (Markham L)

Substitutions / Membres remplaçants
Ms. Shelley Martel (Nickel Belt ND)
Mr. Lou Rinaldi (Northumberland L)
Mr. David Zimmer (Willowdale L)

Clerk / Greffière
Ms. Tonia Grannum

Staff / Personnel
Ms. Carrie Hull, research officer,
Research and Information Services

T-15

ISSN 1180-4319

Legislative Assembly
of Ontario

First Intersession, 38th Parliament

Assemblée législative
de l'Ontario

Première intersession, 38e législature

Official Report of Debates (Hansard)

Tuesday 27 September 2005

Standing committee on regulations and private bills

Journal des débats (Hansard)

Mardi 27 septembre 2005

Comité permanent des règlements et des projets de loi d'intérêt privé

Chair: Marilyn Churley
Clerk: Tonia Grannum

Présidente : Marilyn Churley
Greffière : Tonia Grannum

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Copies of Hansard

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

Exemplaires du Journal

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Tuesday 27 September 2005

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mardi 27 septembre 2005

The committee met at 0931 in the Best Western Beacon Harbourside Resort and Conference Centre, Jordan.

VQA WINE STORES ACT, 2005
LOI DE 2005 SUR LES MAGASINS DE VINS DE LA VINTNERS QUALITY ALLIANCE

Consideration of Bill 7, An Act to authorize a group of manufacturers of Ontario wines to sell Vintners Quality Alliance wines / Projet de loi 7, Loi autorisant un groupe de fabricants de vins de l'Ontario à vendre des vins de la Vintners Quality Alliance.

The Acting Chair (Mr. Kim Craitor): Good morning, everyone. Welcome to beautiful downtown Jordan. The standing committee on regulations and private bills is pleased to be here. On today's agenda we're going to deal with Bill 7, An Act to authorize a group of manufacturers of Ontario wines to sell Vintners Quality Alliance wines. The bill is sponsored by MPP Tim Hudak. The process will be that we will start by allowing the member to speak on the bill for 15 minutes, and then we'll follow up with five minutes for the government statement.

Mr. Tim Hudak (Erie–Lincoln): Thank you, Mr. Chairman, for the opportunity, and I thank the members of the committee. I thank those who are here with us today and those presenting, either here in Jordan or in Toronto, for their input and their support of our grape and wine industry.

It's relatively rare for a private member's bill to not only make it this far in the process but also to be taken outside of Queen's Park for public hearings. I thank members of the committee for their support, particularly my colleague from the Niagara Centre riding, Mr. Kormos, who was very helpful in securing hearings here in the Niagara Peninsula. I also want to thank Finance Minister Sorbara and Minister of Government Services Gerry Phillips, who have given me personal phone calls to discuss this bill.

This morning I want to take a few minutes to outline for the members of the committee and the public why I introduced this bill, and a similar one as Minister of Consumer and Business Services in 2003.

Before I do that, let me say that nothing I am proposing in this legislation should diminish what I believe to be another important government initiative to support the Ontario wine industry; namely, to encourage the promotion of Ontario wines through its existing distribution system, the LCBO. I think that any solution needs to better utilize the existing LCBO system but also look to a parallel system of winery stories.

No doubt some positive steps have been taken by the LCBO, such as the Craft Winery section, VQA advocates in the stores and showcase stores in Ontario, like the one we recently built here in St. Catharines. While minister, I enjoyed working with Andy Brandt to move forward these initiatives, and I'm pleased to see them continue.

No doubt, the LCBO must be an important and necessary part for any solution to improving the promotion and sales of Ontario VQA wine. But from my experience as an MPP and as the minister responsible for the LCBO, I fundamentally believe that the LCBO alone will not be sufficient to remedy the industry's challenges. We can do more, so allow me to present three reasons why I believe this bill to be an important solution.

First, I believe we have the potential to create in Ontario an even greater destination attraction for wine lovers internationally. We have the grapes, we have the talent, the natural resources and the entrepreneurship to make this happen, and government policies are actually an impediment to achieving this goal.

Second, I believe we have an alcohol distribution system in Ontario that is not reflective of the realities of the growing Ontario wine industry, nor of the mature Ontario consumer.

Third, I believe that policy decisions to support our VQA producers—and again, VQA is the 100% Ontario grape product—will reap even greater rewards for a number of other government policy goals such as investing in agriculture, building a support system for the greenbelt and supporting innovation and research. Let me address these in a bit greater detail.

This past summer, my wife Debbie and I had a chance to spend four days' vacation in Napa and Sonoma to help celebrate her birthday. As an MPP proud to represent part of the Niagara Peninsula, I believe we have many of the same ingredients to create a similar destination attraction. We've made great strides in that respect, though we still have a number of steps that we can take.

One of the elements of a truly successful wine region is a vibrant and diverse industry. You need the large

wineries no doubt for their marketing muscle, but you also need a successful, profitable and vibrant small craft winery industry. It adds ambience; it adds a variety of experiences for the traveler.

Many of our small and medium VQA producers are facing significant economic challenges today. Their chief concerns are tax rates and market access, not to forget the very specific challenges of a devastatingly difficult growing season for our producers this past year. What stands in their way to greater profitability and therefore sustainability is government policy.

One of the major differences that struck us immediately from the California experience was the number of speciality wine stores that highlighted and boasted about their local California product. We need speciality stores, particularly in our areas of high tourism traffic in Ontario, to showcase our award-winning VQA wine. The more Ontarians and tourists alike see, hear and taste our award-winning wines, the greater the likelihood that they will visit or return to Niagara, Prince Edward County or Pelee Island. I think the Wine Council of Ontario presentation will discuss the relatively small number of wine stores that currently exist for a province of our size.

Sadly, instead of promoting VQA experiences in stores, government policy actually dramatically restricts their market access. Retail stores opened after 1993—wineries are limited to selling only at the site of the winery itself, nowhere else. They can only sell their own products and only those products actually manufactured on site. Imagine if your product could only be sold for retail through the manufacturing plant. Such a government-imposed restriction would present you obviously with enormous challenges in executing a successful business plan.

I know some will say that the LCBO should be the solution, and the only solution, to that dilemma, which takes me to the second reason: that focusing strictly on the government-owned and operated LCBO in its current form is not the answer. Increasingly, the LCBO's mandate has been to drive maximizing revenue for the province of Ontario. That means that as a consequence, it concentrates on big brands that can supply all of the stores quickly and hit those shelves. Suppliers to the LCBO are often told to hold their own inventory, imposing a significant cost to small and medium-sized businesses. Effectively, its door-to-floor inventory style is much like that used by Wal-Mart, and it has become the Wal-Mart of the alcohol sales business in terms of concentrating on big brands.

While that system can be conducive to large producers like Australian wines or French wines, it actually harms our small and medium-sized Ontario VQA producers. In fact, the recent Beverage Alcohol System Review Panel cited this by saying, "Currently the LCBO decides what products to carry, and tends to favour those that generate a high sales volume. Wineries and distilleries producing small volumes or specializing in niche products have few options if their offerings are not listed."

Just a couple of examples: There are 120 wineries that theoretically could sell to the LCBO in the grape industry, but only 15 sustain a general, ongoing listing at the LCBO. Furthermore, only 10 of the VQA wineries have sold 10,000 cases per year to the LCBO, a relatively modest amount when you consider that Yellow Tail, one of the big Australian wines, sells 17,000 cases of Yellow Tail red per month, as opposed to the 10,000 per annum for the VQA wines.

0940

The last point: I think a lot of us were surprised that in February the National Post revealed that only 10 of the top 49 Ontario wines for the Ontario Wine Awards were available through the LCBO. Certainly that restricts consumer access.

I think we should be emboldened by some of the successful changes that have been made to liquor licensing laws in Ontario. Certainly agency stores in small-town Ontario have been generally well received. Some of the new initiatives like "bring your own wine, take the rest home," a 2 a.m. close and expanding hospitality to areas like golf courses have been generally accepted by the public. I think we can push more toward having new options for wine retail in Ontario that would specialize, unlike the Wal-Marts, in VQA sales and hard-to-find wines.

Let me return to my third reason for introducing the bill. I believe policy decisions to support our domestic industry will reap even greater benefits in the agriculture sector and the tourism sector, will support the greenbelt and will support innovation and research through our post-secondary institutions.

When you buy VQA wine, 100% Ontario grape, you're also making an investment in Ontario farmers, the grape growers—VQA wines, 100%. Let me stress that again, Mr. Chairman. The wine council and grape growers will tell you that for every bottle of Ontario VQA purchased, there's an economic benefit of $4.30 per bottle, in contrast with only 56 cents per bottle for any imported wine.

Spinoff benefits to the agriculture and tourism sectors from VQA stores would also help the government support its recent greenbelt initiative.

The clustering of resources to support our grape and wine industry includes innovative programs at Niagara College and Brock University. Government policies that will aggressively promote VQA wines will support other government initiatives to invest in post-secondary education and to pursue Ontario as a lead innovator in North America.

Let me conclude by addressing the one concern I've heard about this legislation. I think there's broad support—we've heard it in debate from members of all three political parties—for doing more for our VQA wines and addressing the market access issue. I note some government officials have expressed concern about potential trade obligations. When I had the opportunity as a minister to examine the same file, I worked with the Ministry of Consumer and Business Services staff to craft the best legislation that would minimize those trade risks. Certainly, Chair, I think you're well aware that in

California, British Columbia and Pennsylvania, very similar initiatives already exist that have not been challenged by any kind of trade law. As a result, I believe this will be the case if this legislation becomes law: the same experience as California, Pennsylvania, BC and other jurisdictions have had in supporting their domestic industry.

Despite requests to government for a legal opinion on such, we've received nothing to date. In fact, the LCBO has written to me indicating that no such opinion exists in their organization, and I think the same from public infrastructure renewal, now responsible for the LCBO.

Nonetheless, my goal is to ensure greater market access for our craft wine producers. If there are ideas that come forward from those who present to the committee and from members of the committee to improve the bill, to amend it or come up with a better idea, I'm open to them. I don't care if it's Bill 7 particularly or any kind of other initiative, as long as we solve the issue of market access, support our domestic grape and wine industry and uncork the potential of our VQA wines.

Again, I thank you for the opportunity to present. I look forward to these hearings and to working with members of the committee and the general public, if possible, to improve the bill and send it back to the House for third and final reading. Thank you.

The Vice-Chair (Mr. Tony Wong): Thank you, Mr. Hudak. The government statement?

Mrs. Maria Van Bommel (Lambton–Kent–Middlesex): First of all, it is wonderful to be here in Jordan. From this side of the room it's certainly a beautiful view.

There's no question about the support of our government for the winery industry and for grape growers. As a matter of fact, in our May 2004 budget the government and the province added an additional $10 million to our funding for the wine industry. That started this year and will last for five years.

Many of us have been to this area. We've been to Pelee Island and to Prince Edward County, and certainly the wineries are showcased in these areas. My husband and I return over and over again every year to Niagara-on-the-Lake for a bicycle tour of the wineries and enjoy it very much. It is a real tourist attraction, and it continues to grow. Every year we see more and more people here, and we really enjoy it. But as a farmer, I also appreciate the skill of the farmers in growing this industry. The grape growers have done an amazing job in selecting varieties that will weather this climate and that bring out the best of the soils in this climate and in this area.

Even with that, we all know that Mother Nature is something we still have no control over. So this year our government has entered into an agreement, an MOU, with the wine council, the LCBO and the grape growers to help mitigate the short crop that's coming. The government is committed to creating a committee that will address the medium- and long-term issues of the industry, and the associate secretary of cabinet will chair this committee. This demonstrates the government's recognition of the importance of this industry and its issues.

The MOU clearly articulates a commitment to promote transparency and clarity for the consumer in presenting VQA and non-VQA wines. It will be there so that consumers understand what they're buying. This is a significant commitment on the part of our government that goes well beyond the short crop that is ongoing right now.

We recognize the importance of the grape-growing and winemaking industries as part of the economy of Ontario, and in particular of the greenbelt. We will continue to support the ongoing wine industry. The one concern we have, as has already been stated, is that this bill does violate existing trade agreements by increasing the number of wine retail stores selling exclusively domestic wine. That may have the potential of hurting the wine industry in the future.

I feel, as does our government, that the wine industry in Ontario has a bright future. I think we can achieve great success, but we need to do it in a way that is consistent with international trade agreements, and I think we have that possibility.

The Vice-Chair: Mr. Craitor, there's about one minute left, and you would like to speak, right?

Mr. Kim Craitor (Niagara Falls): I do, Chair. Thank you. I just have very brief comments. First of all, congratulations, Tim, in putting this bill forward; I will be supporting it.

I do want to share something, because we keep hearing about NAFTA. I just want to quickly mention something that took place in Niagara-on-the-Lake. I had a town hall meeting and brought in the chair of the LCBO. I didn't bring up the subject, but it was brought up—there was a great turnout. I remember Andy Brandt, who was a minister in a previous government, explaining to us quite clearly that you can't do it, you shouldn't do it and here are all the reasons you shouldn't go forward with this type of bill. Even after hearing that, I'm still going to continue seeing if there's a way this bill can go forward without, as Andy Brandt said, serious effects on the free trade agreement. As someone who believes in and has worked hard, as has Tim and other members—the wine industry and the grape growers are essential to our economy; they provide a quality product. I want to ensure that every opportunity exists to help them in any way we can.

The Vice-Chair: A third party statement, Mr. Kormos?

Mr. Peter Kormos (Niagara Centre): Thank you, Chair. It's a pleasure to join Mr. Hudak in his riding this morning. I applaud him for his bill and for the motivation for that bill. Let's understand, though, that there are undoubtedly going to be amendments to this legislation before it's completed in committee.

We have to expand this beyond VQA; it also has to apply to fruit wines. I only discovered this summer, drinking some very, very good peach wine from one of Niagara's wineries, that there was a similar appellation for Ontario-based, 100% Ontario-sourced fruit wines, which of course then takes us to the whole issue of wine

content. I'm pleased that the furor around wine content has been the cause of some very public debate. I think one of the things that's part and parcel of any addressing of the need to promote and reinforce Ontario wines is to stand firm and adamant that wines identified in whatever way, shape or form as Ontario wines should be 100% Ontario product. If it isn't 100% Ontario product, it's not fair to the grape grower and not fair to the fruit grower.

0950

The grape growers down here in the course of my lifetime—50 years now—have gone to some incredible expense and huge labour in terms of ripping out vines and raising new stock, developing a world-class grape. It's an injustice to hard-working grape growers in Niagara to have somebody drink Chilean plonk under the misperception that they're drinking an Ontario—never mind Niagara—product. It's offensive to those families growing grapes, because it's families who grow grapes.

You can talk about California. I've been down to California. There you see one vineyard, and it's the size of all of Niagara region. That's just one owner of one vineyard. You undoubtedly saw that, Mr. Hudak. The scale is enormous. One of the blessings of the grape-growing and wine industry in Niagara is that we've seen this beautiful growth of small, niche, boutique wineries producing some incredible product.

I, like others, am a fan of Andy Brandt at the LCBO. I'm a fan of the Ontario liquor board employees' union and their membership as well, who work hard selling spirits and wine product.

Mr. Hudak knows that I support the intent and the goal of his bill, but I believe that the goal is best achieved by making the LCBO front and centre. Quite frankly, I am not about to dismiss the trade arguments; however, I say that they can be addressed very readily. To give the LCBO the mandate, in conjunction with the Ministry of Tourism, to promote Ontario within their jurisdiction of marketing spirits and alcoholic beverages as a "promote Ontario" exercise in no way violates the free trade agreement, in no way violates GATT or any other trade agreements and, in my view, is entirely achievable. The LCBO has huge assets, huge revenues. We should be diverting some of those huge revenues to very specifically setting up LCBO-run retail outlets.

It boggles my mind that we're prepared to pick people's pockets clean at the slot machines in the Niagara Falls casino but we won't sell them a bottle of VQA wine. Well, Lord love a duck, if there was ever a market for a good-quality local wine product, it's people who are blowing their brains out at the slot machines; if not at the casino, then at the Hamilton airport, at the Toronto airport, in places like the market area in Ottawa, which Mr. Hudak has spoken of, and in the new development east of downtown Toronto, a high-profile, heavily touristed area.

I'm putting to you folks that today should not be the final day of consideration of this bill. To give it only one day's consideration is to give is short shrift. There is too much here that could be built on. I say we should be getting Andy Brandt and the LCBO and Jim Bradley, who is a local member and a good member, in here, talking about how we can develop LCBO-operated retail outlets of the small, niche, boutique winery producers, both fruit and grape, and using that as part of promoting Ontario.

I look forward to the comments of participants. I look forward to hearing from Ms. Zimmerman again.

It boggles the mind: How many times have you been on an Air Canada flight where they don't even serve you good French wine; it's bad French wine? That we can't serve Canadian wine on an Air Canada flight just rots my socks. It is incredible. How many times have I politely asked the flight attendant to please tell the captain to please tell management somewhere in that wacky, bizarre, bureaucratic, privatized operation that I resent being served French wine on Air Canada, because, trust me, no French airline will ever be serving Ontario wine. It's up to us to do it if it's going to be done.

I'm looking forward to this issue being resolved in committee so that a bill that is workable and realistic can be presented to the Legislature for third reading. I'm certain that this government would not abandon grape growers and winemakers down here in Niagara by not calling the bill for third reading.

The Vice-Chair: Mr. Hudak, the clerk has just advised me that since there are no other members of the official opposition, you may want to speak on their behalf, if you so wish.

Mr. Hudak: I'll take the chance and speak on the opposition's behalf. I'll be quick, Chair. I do thank all my colleagues for their comments. To Mr. Kormos particularly, I do appreciate his support for the principle. He's always been a very strong advocate for local grape growers and the VQA craft wineries. I appreciate his points on fruit wineries as well.

As I said, Chair and members of the committee, I'm open to whatever method will help this become a reality, such that I believe in the principle of better promoting our VQA small craft producers at airports, at the casino, in high-traffic tourism areas. After all, if we want to be a world-class destination—we're getting close, but we have steps to go—we have to boast to tourists and to Ontario residents alike, and what better way to do so than in some of the high-traffic areas that Mr. Kormos has mentioned and that I've mentioned in debate before. Whether it's through speciality stores of the LCBO or what have you, I'm open to whatever methods are possible to make this a reality. I look forward to working with government members to amend the bill where possible.

I thank Mr. Craitor, also representing a key grape and wine area, for his kind words of support for the bill. I know Mr. Craitor has been heavily involved in supporting his local constituents.

I'm pleased with the parliamentary assistant's remarks, which I hope—it sounded like they left the door open if there's a way to amend the bill to give the government some peace of mind with respect to trade issues.

Certainly, as the parliamentary assistant referenced, I think we're all very pleased that the wine council and the grape growers have come together in a very difficult time, with the short crop, to move forward together. Of course, nobody's always going to like everything, but the two tables came together on some important accomplishments, like specializing in VQA wine and giving consumers a better understanding of what's 100% Ontario grape product and what is blend. Concentrating on VQA wines is the right way to go.

It occurs to me that on trade issues, Canadians are often boy scouts. We see that in California, Pennsylvania—British Columbia has had VQA stores for a number of years and has actually increased its VQA stores from eight to 20 in the last few years, doubling sales of VQA wine in the process. If other jurisdictions do it, I think we should replicate that here in the province of Ontario.

The LCBO, for its efforts—and I think Andy Brandt always does a terrific job in taking government direction and implementing it, which is his role as chair. I enjoyed working with him and thank him for his support for a number of initiatives that we brought forward. I think if direction is given to the chair of the LCBO through the House, we can make these stores a reality, despite any concerns that have been brought forward.

I think we have to face the fact that the LCBO, in many ways, is currently the channel for imported wines. I think 60-some per cent, whether it's by shelf space or by value, is currently imported wines as opposed to domestic, which is way out of line with other jurisdictions. That's why I think we need the parallel system. While improvements to the LCBO are welcome, there's no doubt—and as part of the agreement, with the grape growers and the wine council and the government getting behind it, we'll see progress at the LCBO. But we do need to recognize that the LCBO is more conducive to the largest of the producers, whether it's Andrés or Vincor or some of the larger craft wineries, the VQA wineries. As I said in my remarks, only a small number, 15 of 121 wineries, maintain a general listing that year after year are on the shelves. The others, because they're concentrating on quality rather than quantity, just don't fit with the LCBO. I'm encouraged to see progress on that front, but we can't forget about the smallest of the producers and the medium-sized producers and the benefits that will bring to grape growers.

When we sell a product through the LCBO, we can't lose track of the fact that the impact on the economy in agriculture and tourism is much greater from a VQA product. Doing more for our small VQA producers is the goal of this bill, and I look forward to any helpful amendments to get it back to the House for a third and final reading vote.

The Vice-Chair: Thank you, members. Ladies and gentlemen, there are a number of deputations. Each individual will have up to 10 minutes for the presentation and questions, and each group will have up to 15 minutes for that.

1000

JOHN O'NEILL

The Vice-Chair: The first deputant is Mr. John O'Neill. Please come forward. Welcome.

Mr. John O'Neill: Good morning, fellow guests, distinguished members and honourable standing committee. My name is John O'Neill. I have resided in the town of Lincoln for the past 20 years and would like to table a suggestion regarding the VQA Wine Stores Act, Bill 7, to this committee today.

I have been a staunch supporter of issues surrounding the greenbelt and have voiced objections to committees, members of councils and to some authorities acting upon such now-legislated interests. I put this to you now: My position on the greenbelt is not as important as your position being in it. You are the greenbelt, we are the greenbelt, and you are also Lincoln, Ontario.

I believe in Lincoln, and I believe that we are number one in wine. The town of Lincoln and its community is the heart of the greenbelt and Niagara's gateway to wine country.

The Honourable Tim Hudak has brought forth to you Bill 7 through necessity. We are watching and supporting him and his attention to our cherished and envied prime land.

It doesn't stop there. The greenbelt is juggling solutions to existing problems about its infrastructure, and only a few people took a stand when this started. I believe that these constraining problems have left towns like Lincoln in such tough situations as how to gain a threshold to expand its base by the duties to its own infrastructure. We alone, as Lincoln, supply the entire area with vital services and maintenance of the needs for the community, because our wineries have become production manufacturing and our very own red and white blood. We work very hard here and love our work, putting together beautiful wines for your tables.

I support all co-operative alliance agreements in the marketing of our Ontario wines. I am not here for the interests of anything else.

I say to you that the LCBO should offer no less than a significant portion of their shelving policies to our great VQA selection. Is there any favouritism in this area already, I ask? You tell me. In light of offering the LCBO the first right of refusal in restocking their shelves with VQA bottles, I believe that taxation benefits to the LCBO should disappear entirely.

We all know that the VQA can face local markets head-on and in full force and prosper, with or without the LCBO. There would be little problem with this. It would be nice if anyone buying VQA wine in Ontario would do so from a specialized VQA store. Nothing would make us prouder. This is one way that we can reach further into markets in setting examples to other countries, with more support from our own. A great opportunity to everyone in the growing industry is before you right now. After all, who wouldn't like to tour our fine vineyards too?

We are proud. We are Lincoln. We develop the best of VQA wines. Our culture is wine. I say, "Put your hand in the hand of the man who fills the bottle."

Local skills make the best wine, painstakingly and carefully. I symbolize this through a message in this bottle. I believe that together we can show our support of the honourable Tim Hudak's Bill 7 to all of the people of this province and this country who enjoy good-quality wine bottled with the commitment and pride of great local vintners.

I'd like to present this. It has the message in it. Thank you.

The Vice-Chair: Thank you, Mr. O'Neill. Members, we have about three minutes left, so each party will have up to one minute to ask a short question or make a statement. The government.

Mr. Craitor: First, let me just say thank you for a very passionate and well-put-together presentation. It's one of those that you can tell is coming from the heart, and I really appreciate that.

Your message is clear, and I'm going to just quickly tell you something that I've learned as a new MPP. I was truly astounded when I started to understand what a bottle of wine contained: as little as 10% grapes from Ontario, or even from the Niagara region, and as much as 90% from Chile and offshore. There were many times I actually carried around a couple of bottles of wine. I would show them to my friends and ask, "This says 'Ontario.' Do you know what it means?" I'd say 99% of them said, "Well, that's Ontario wine. That's ours." Then I would explain to them, "No, it's not. It's blended. This is VQA." So I'm saying to you, and I've said it loud and clear, that VQA comes first. We have to figure out a way. We have to get the LCBO—and I've said this publicly as well: I don't find them friendly. I do not find them friendly to the grape growers in particular, to the small wineries, with how difficult it is to get in. When you go in and look at their shelving, the way it's set up, it is not set up to really ensure that the public understands what they're buying. So there have to be changes in that distribution system, as you've said.

I haven't got a question to ask you. I simply want to say that was a good presentation and something that we have to work toward accomplishing.

The Vice-Chair: Thank you, Mr. Craitor. Mr. Hudak, for the official opposition.

Mr. Hudak: John, thank you very much for the presentation. Obviously, you have a great passion for the grape and wine industry and as an active local citizen. It's good to see you here at the committee.

If this bill were to pass, and hopefully it will pass, and you were to walk into a VQA store down the road, what would your advice be to the committee as to what it would contain, and how about advice on the best locale for these types of stores?

1010

Mr. O'Neill: Well, it's funny you mention that. As a matter of fact, my sister, who comes from Richmond Hill, drives all the way to Niagara-on-the-Lake. She occasionally stops into Lincoln and visits us, but she drives all the way to Niagara-on-the-Lake when she could leave her home, go one minute down the road, find a VQA store and purchase a greater variety.

Now, I will never dismiss the fact that she does like coming down here. She does like going on the wine tours. That's great. I think that's fantastic. That boosts the area. I think that's in the program and it always will be. But the fact is, she could be purchasing a variety of everybody's wine. She could have an option of getting the whole spectrum of wine from the wineries here, Niagara-on-the-Lake and other areas, even the country: a greater variety on those shelves, three or four different styles.

I was speaking with one of the winemakers. He suggested that the LCBO accepted four different styles of wine from the winery, and they only accepted one. I wasn't quite sure how to relate to that, considering they were all good. I had bought from him before. But I think variety is the main thing. The options are there to have that variety. I think specialized, educated attendants at these stores would help and assist to bring that out in our wine, to educate the people. I think that's the hardest thing to do, educate the people, make them understand that we have world-class wines here, and I want to see it go world-class, big time.

The Vice-Chair: Thank you, Mr. O'Neill. Mr. Kormos has up to one minute.

Mr. Kormos: I just want to thank you very much for your presentation. It's not only bang on, in my view, but it had some moments of alliterative quality. Is that fair, Ms. Mossop? Yes, there was some alliterative quality to it. Thank you very much. I appreciate you being here.

ED HUGHES

The Vice-Chair: Our next deputant is Mr. Ed Hughes. Please come forward, and welcome.

Mr. Ed Hughes: I have to apologize. I have a bit of a cold.

Thanks very much for having me. I want to give my complete support to VQA store creation. It's long overdue.

The creation of VQA stores would provide a viable outlet to promote and sell Ontario VQA wines from small cottage wineries and estate wineries, which are crucial for the continued existence of small family grape farms in Niagara. If you want to keep your commitment to improving the lives of farmers and communities, the creation of VQA stores would be a good first step for these family-run businesses in Niagara.

I am a relatively young farmer with a university education in viticulture. I'm trying to grow my business, and I believe I am one of the few who are trying to do this. Small wineries are a relatively new but explosive industry in Niagara, and it is time to allow them to compete on a level playing field with the large multinational corporations that have come to dominate the Ontario wine industry in the last several years. The current government

policies and systems in place in the grape and wine industry fit the needs of the big wineries, but they do not work for the small wineries.

Cottage wineries and family farms are suffering for a number of reasons and need serious corrective action. VQA stores in Ontario are a good first step to help keep cottage wineries viable by increasing access to the Ontario market. In fact, I would suggest that VQA stores be designated for small wineries only.

Within a few kilometres of where we are sitting today, you can find VQA wines that have won all kinds of international and critical acclaim from world-respected wine experts, and yet many of these wines can only be purchased at the winery, which means the only market for these wines is to consumers who will have to make a one- to one-and-a-half-hour drive to Niagara. It seems apparent by the absence of these wines from the LCBO shelves that the current policy simply doesn't work. Through a combination of LCBO criteria and high taxation, a single winery outlet is preferred.

During the greenbelt consultations in Ontario last year, the government frequently used the Napa Valley as an example of a successful greenbelt. Perhaps this is true, but if you take a closer look at the Napa Valley, there are no small family farms, farm wineries or real farm communities like there are in Niagara. Only large corporations are able to spend the millions needed to do anything in Napa, and Niagara-on-the-Lake is becoming like Napa, which would be a great loss of community. The character and personality of the Niagara region is reflected in small family farm communities. It is the small wineries and the family farms that are vital to preserving our way of life.

Some of the cottage wineries make outstanding wines, and if they could be sold without LCBO price structures and less taxes, this would attract new consumers and help grow the only sustainable portion of the wine industry. Why should these wineries be given a reduced tax structure? It is simple economics: If you reduce the price and improve the access, these wineries will then improve and the government will receive additional revenue in the form of increased sales taxes to offset the lost revenue from the reduced taxes per bottle.

I have heard the arguments about NAFTA and VQA stores. I don't have any solutions to offer. However, I have two issues: First, NAFTA came into effect January 1994. VQA BC started in 1999 and the VQA stores some time later. How did they do that? Second, presently the NAFTA countries—the US and Mexico—do not purchase VQA wines in any great quantity. Only 2% of VQA wines are presently sold outside of the province. Our own in-province market currently is the most important market to sustain the small cottage wine industry.

In a recent lecture at Brock, David Lawrence, an international wine and viticulture consultant from New Zealand, indicated that if VQA wines did not command 40% of the market share, the VQA industry would be in trouble. Today, VQA wines hold approximately 12.5% of the market. Convenience to purchase VQA wines is vital to VQA growth, and VQA growth is the only sustainable growth area for both the cottage wineries and the grape farmers in Niagara. Niagara is a cool climate region for growing grapes and therefore, to be sustainable, wine needs to start around $15 and up per bottle, with the majority of the revenue going to the wineries. In Australia they have a staggered taxation system, where the revenue needed to sustain day-to-day business is taxed at very low levels, and as revenue improves, so does taxation. Without improving the bottom line for wineries in Ontario, the industry will stall.

The wine content act is archaic and eventually will be repealed. Niagara could become the only wine region in the world with all imported grapes, with the final result that the family grape farm will slowly wither away and the small communities that everybody, including your government, is so passionate to preserve will be lost. It seems to me that it would be a meaningful first step to set up VQA stores that improve market access for small cottage wineries and estate wineries. Thank you.

The Vice-Chair: Thank you, Mr. Hughes. I'm going to do it by way of rotation, and I'm going to start with the official opposition. Each party has about one minute.

Mr. Hudak: A great presentation, as always, and well researched. I should let members of the committee know that Ed has some other ideas too that we're working on to promote product grown by local farmers and local grape farmers.

Ed, maybe you could help us a bit more in terms of the reaction of some grape growers to the greenbelt in terms of how this might help farmers who have found themselves caught in the greenbelt area.

Mr. Hughes: My personal opinion—I can't speak for other farmers, but as a farmer, I don't see a lot of growth in the current direction that the industry is heading. The majority of the grapes sold are for blended wines that don't seem to be increasing in any substantial manner. Vincor and Andrés—you can't bite the hand that feeds you—buy 80% of all the grapes that we produce. We need to work with them, but we also need to work on areas that can grow. As a grape farmer, VQA wines and small cottage wineries are the major growth area, and it's been shown in the past 10 years, with the number of wineries opening, that we need to encourage this, to develop it, and I think VQA stores are the way to go.

1020

The Vice-Chair: Mr. Kormos.

Mr. Kormos: Mr Hughes, thank you very much. You're a grape grower. Are you a winemaker as well?

Mr. Hughes: Maybe, soon.

Mr. Kormos: We've all read about the remarkable growing season this past summer and how it has resulted in perhaps a lesser volume of grapes but a unique quality of grape. Is that a fair observation?

Mr. Hughes: Consistently, year after year, I have to say Niagara produces very high-quality grapes. Year to year, there are different varieties that do better. This was a hot, dry summer. It's definitely preferred for reds.

Mr. Kormos: It's the sort of stuff I want to know. This may have nothing to do with this bill, I just need this information.

Mr. Hughes: White wines enjoy our typical climate, which is a cool climate. They do much better. However, we have had some great successes off and on with reds, and there are some reds that do enjoy cool climates.

Mr. Kormos: What kind of wines are going to be most impacted by the unique season that we just had in Niagara?

The Vice-Chair: Mr. Hughes, please answer the question in 10 seconds.

Mr. Kormos: He planned to until you interrupted him.

Mr. Hughes: Cabernet, Merlot, Sauvignon Blanc and shiraz are the ones most impacted, I would say.

The Vice-Chair: Thank you. The government.

Ms. Jennifer F. Mossop (Stoney Creek): Thank you very much for your presentation. You did reference the BC model, and I think maybe it would be a good time to get this issue cleared up right away. I definitely support the sentiment behind this bill. I've been following the Niagara grape and wine industry throughout my entire career and I'm a huge supporter of it. The reason why the BC model works is because the industry got together to come up with a solution. It's not one that we can legislate. The industry got together and agreed that the existing VQA stores would be shared by all the wineries. We haven't reached that here in Ontario yet. That is not something we can legislate, but it is why our government is working very hard with the industry to develop memorandums of understanding to solve some of the challenges and deal with those problems, like the memorandum of understanding we came up with for the industry last week, which was signed off on, to deal with this year's severe short crop. Also, though, it built a foundation to move forward, with the industry coming up with the solutions themselves and moving forward. This is a really important piece.

In the short term, while we continue to work on that piece, I think Vintages is a tremendous venue for all Ontario wines, because we don't get into the quota situation. It's not a shelf space. You could have one case, and we can send it off to Vintages. Vintages has a tremendous amount of credibility with the public, with the consumer, and doesn't have that quota issue. I've been working with Andy Brandt to say, "Come on, this is allowable and it's already there." There was an agreement in place a number of years ago that just has not been pushed maybe as much as it should be. We're working to encourage the industry to come up with these solutions, because they exist.

Mr. Hughes: If I can address—

The Vice-Chair: In 10 seconds.

Mr. Hughes: —two points: Most of the wineries, as Tim pointed out, don't put their product in the LCBO due to taxation. It's a very tight market, and you can't afford to lose the amount of money that the LCBO takes. Secondly, the BC solution—and I don't know all about BC, but they didn't have a Vincor and an Andrés that dominated their industry. They already have their stores; they're not interested in allowing small wineries to have their stores. They have a monopoly already in Ontario, so why would they promote or allow small wineries to now infringe on their market?

Ms. Mossop: But BC did manage to get around that, and we have to get something going here as well.

The Vice-Chair: I'm sorry, Ms. Mossop, your time is up. Thank you, Mr. Hughes.

WILLIAM GRIFFITHS

The Vice-Chair: Our next deputant is Mr. William Griffiths. Welcome.

Mr. William Griffiths: Thank you. I got out of the farming business a long time ago, because it really wasn't worth the effort.

Good morning, ladies and gentlemen and committee members. Thank you for the invitation to address this hearing about Bill 7 and the VQA stores.

I feel that under the present circumstances, Ontario wineries that are willing, and want to produce 100% Ontario wines and sell them at stores they own or control, are both an excellent idea and a very necessary requirement if they are going to promote Ontario-grown grapes and other products of our Ontario farms.

With the introduction of the greenbelt legislation in Ontario, and in particular in the Niagara Peninsula area, if we do not give farmers all the support we can, we will be able to say goodbye to having the fresh fruit that we at present have the chance to enjoy each year.

The farmers in the Niagara area are, at present, being squeezed by the large corporations that bring products from around the world to compete with local produce at the time that ours is in season. This can be done because the labour costs in most countries are only a fraction of the costs in Canada.

It is apparent that the citizen-owned Liquor Control Board of Ontario sees fit to display most offshore brands of wines rather than showcase our own Ontario products. I have heard of several reasons, but the real reason will remain unknown, as most of us are not mind readers. But then we have a problem: Who knows whose mind to read?

Some years ago, the Ontario and federal governments co-operated with farmers to change the types of grapes grown for winemaking. It has taken some time for this plan to come to fruition, and now that it is doing very well, large wineries and wine blenders want to squeeze farmers by importing foreign wines and falsely labelling them as fully Canadian wines, thus denying farmers a fair profit for their efforts. If the wineries and blenders are sincere in the offer to only import wines for blending, and will revert as soon as Ontario grapes are available, they should be willing to pay a tax or surcharge on all the wine imported, so they can keep their plants operating, to the farmers who are losing money due to the crop loss due to weather conditions beyond their control.

We also have a serious matter to deal with, and that is the dilution of Ontario wines with wine from other countries without proper labelling. The large wineries and the blenders are blending a small amount of Ontario or Canadian wines with wines from other countries. Then they have several ways of suggesting that the product in the bottle is Canadian, when in fact it is up to 90% imported wine from anywhere in the world.

This brings up a more serious problem in Canada. We have rules on the kinds of spray that can be used and when it can be used in relation to the harvesting of the crop. Many foreign countries use sprays that are hazardous, and we have no control over when or how they are used, which leaves the purchaser open to any health hazard without the knowledge of what it may be.

I have filed a complaint with the government of Canada about the dilution of Canadian wines with foreign wines without proper labelling under Canadian law.

1030

The Vice-Chair: Thank you, Mr. Griffiths. I'm going to start with the third party. Mr. Kormos.

Mr. Kormos: Thank you very much, Mr. Griffiths. With respect to the wine content issue, there's been a lot of misunderstanding about that, and it's the identification of the wine by virtue of its placement on the shelf in the LCBO that is misleading. As well, the label talks about the wine being cellared in Canada, but currently there appears to be no obligation that the consumer be advised of where the respective juices or grape came from—in other words, the country of origin—or the percentage. In other words, we don't even know that it's 10% as compared to 15% or 20% Ontario grape.

I trust that you would be calling for some pretty rigid, complete and accurate content identification on any given label on a bottle of wine.

Mr. Griffiths: Yes. I have filed the application because I believe if it's made in Canada or Ontario, it should be labelled such, and if it's from any country in the world—and I don't care about their bringing the wine in. I am not objecting to Chilean wines or Australian wines coming to Canada. That's not the objection. The objection is mixing them with Ontario or Canadian wines and then putting a label on that says, "Cellared in Canada," which means stored in Canada; it has nothing to do with making it. They also have a way of putting the label on that is most deceiving. It says, "Bottled in Canada." "Canada" is in big letters, and in little weenie letters is "bottled." I think that's a disgrace for the industry, but it does make money, and that's all the wine industry is interested in as major corporations. They couldn't care less about the farmer. We quit farming years ago for that reason.

The Vice-Chair: Thank you, Mr. Griffiths. To the government side: Mrs. Van Bommel.

Mrs. Van Bommel: I also want to just explore this whole wine content issue a little further. When we talk about the wine content and this idea of being cellared in Ontario, and people are looking for an Ontario product, as we go through this discussion, do you think there is a possibility that there may be some harm to the VQA designation in terms of people wondering how much Ontario wine there is in that, or do you think the consumer understands that VQA is 100% Ontario wine, and other Ontario wines are not necessarily that way?

Mr. Griffiths: If it's properly labelled and they can enforce that label and show that that label is being enforced, then it will make a huge difference in the wines. If, as Ontario has just done, they allow them to bring foreign wines in and say it's a Canadian wine, it's a total disgrace to the province of Ontario under any circumstances that you want to play. It's a total disgrace, because every other country in the world orders the identification of products brought in. Our federal law indicates that it is against the law in Canada to blend without identification. Ontario seems to think that's a joke. I'm terribly ashamed of the whole system.

The Vice-Chair: Thank you. Mr. Hudak.

Mr. Hudak: Bill, thanks very much for the presentation. It probably won't surprise members of the committee much, given Bill's passion, that he's probably the gold medal winner for letters to the Premier and various ministers on a whole variety of topics. One of his favourites obviously is supporting agriculture. He should be saluted for that and for very passionate statements today about promoting VQA 100% domestic product and having a clear understanding for consumers as to what comes from an Ontario farm and what is imported via boat from South America. I think we have to give recognition too to some very difficult but successful negotiations between chairman Ray Duc of the Grape Growers of Ontario and chairman Norm Beal of the Wine Council of Ontario to make some progress in that respect. They should be commended for doing that.

Focusing more on the VQA and on clear labelling at the LCBO, do you think that if VQA stores were to be a reality—and hopefully the bill will pass—blends should be allowed in the VQA stores, or should it be strictly VQA product?

Mr. Griffiths: If it's properly labelled and it is a true wine, I don't see any real objection to it.

The bigger problem we have with wines—Vincor, for instance, has bought up several wineries. The names are well known to most people for 100 years or thereabouts, and all of a sudden they've got wines from whatever mixture they like and it says, "Brights red wines from Ontario." You know, that's as big a lie as there is made. That is the destruction of the industry as it goes, because the taste of wines is definitely different from any country in the world. You can blend wines from Australia and Chile and some other countries and come up with a blend that is very similar to Ontario wines.

The Vice-Chair: Thank you very much, Mr. Griffiths.

Our next deputant is Pillitteri Estates Winery. Please come forward. Is there anyone from Pillitteri Estates Winery?

WINE COUNCIL OF ONTARIO

The Vice-Chair: I'm going to invite the next deputant to come forward at this time: the Wine Council of

Ontario. Welcome, and please identify yourself. You have up to 15 minutes for your presentation and questions.

Ms. Linda Franklin: Thanks very much. My name is Linda Franklin. I'm the president of the Wine Council of Ontario.

I'm pleased to be here today representing the Ontario wine industry to offer you our thoughts on Bill 7, which deals with, of course, increased access to the marketplace for Ontario's VQA wines.

First, for some background, the issue of access to the market is a very real and pressing one for our industry for a simple reason: We're growing, as most of you here know from our past years of growth. When I first started in this industry 11 years ago, there were 20 members on the wine council. Today, there are almost 70. That's good news for our industry and it's good news for the province. A recent KPMG study that we've just updated shows that the benefit to the province of the sale of an Ontario bottle of wine is $4.29 in economic activity, compared to 56 cents for foreign wines.

Our industry also preserves agricultural land, enhances tourism in wine regions, creates jobs, provides a platform on which other businesses can grow and establish themselves, and pays over half the retail value of the industry back to the province in various taxes. So by any measure, I think we're a valuable contributor to the province.

As we've grown, however, our ability to get our best wines in front of consumers has become more and more challenging. This is certainly not a criticism of the liquor board; I think we should be very clear. The liquor board have been good partners to the Ontario wine industry over the years and have worked with us over the past few years in particular to support the domestic industry through a variety of measures. But, as they are fond of saying, they don't have rubber walls, and we know that. As well, of course, they're under excruciating, intense pressure from foreign suppliers who routinely argue that international trade agreements mean their access should grow and grow, in spite of the fact that they have a 60% market share of the wine sold in the LCBO already. As a comparison, most other domestic wine industries own 80% to 90% of their home market. So Ontario presents one of the best opportunities for foreign wine sales on the planet, and importers are determined to protect that advantage.

As well, the liquor board is under intense pressure from government to constantly increase revenues. That means moving more product more quickly all the time, and higher-volume brands are a better bet for the liquor board than Ontario VQA wines in terms of economic return.

1040

That wouldn't be true, frankly, if the government looked at the overall economic impact that I've just described to you. But in the case where the only measure of success is cash returned to the province, it's clear that the LCBO is being encouraged to be a mass merchandiser of high-volume wine brands. This is a role they perform admirably well, and should continue. But it does present unique challenges to our domestic industry, which by and large is seeing growth in estate wineries making high-end wines.

Finally, the taxes paid by Ontario wineries selling through the liquor board are higher by a lot than the taxes paid by other wine industries in their own countries. There's a chart in appendix 1 at the back of this presentation that demonstrates some of that inequity. If I could just take you to that chart—it's about three pages from the back—you can see in particular, if you look at the taxes paid in jurisdictions that have wine industries, that California wineries, for example, pay an equivalent in Canadian dollars of $1.13 in taxes on a bottle of wine; New York, our nearest competitor geographically, pays 77 cents; Pennsylvania is pretty high, but it's a control state with no wine industry; Washington, $3.34; Oregon, 53 cents. Then you get to Ontario: $6.06 on a $10-bottle of wine. It's no wonder we're hard pressed to compete in the liquor board.

As a consequence of these high taxes, smaller wineries that can sell all of their product to restaurants or from their own door at a much better tax rate are reluctant to offer their best wines to the liquor board, because they just can't make any money doing it. Unfortunately, that means that Ontario consumers who shop at the liquor board have no idea how much really terrific Ontario wine is made in Ontario, and we believe that's an issue that has to be addressed.

Together, these realities around access and taxation create a real barrier to increasing the sale of VQA wines. Bill 7 represents the first time a serious solution to this access challenge has been presented, and I think Mr. Hudak is to be congratulated for bringing it forward and offering solutions. In fact, I'd argue that this issue has gotten more acute since Mr. Hudak introduced this bill, because VQA sales are softening. Particularly in the last quarter, we're looking at a drop of about 8% in VQA market share.

Many of our international competitors, including Australia, are facing huge gluts of wine in their home markets. That means they're going to be looking to Ontario, one of their top three export destinations, to move larger volumes of low-priced wines in the coming year, starting with a major Australian wine promotion at the liquor board next year. Clearly we've got to strengthen the VQA, and we need to do it now, because frankly we are going to have increasingly stiff competition from folks making really good wines at really low prices.

Mr. Hudak's bill focuses on the VQA, which is where we believe the focus should be, because building our premium wine category is the way of the future for our industry. It also seeks to model a system already in place in British Columbia that has been used with success. In BC, the ownership structure is different than what's proposed here, but the intent is the same: to allow the domestic industry to showcase its best wines at better

margins and thereby increase consumer awareness and purchases of the terrific wines they have to offer.

The main concern raised by government about this bill to date, we believe, has dealt with the issue of trade. I must tell you that there are a lot of members in our industry who have a lot of trouble with this argument and find it very frustrating, since we've watched virtually all of our supports disappear under the trade agreements. As many of you know, our industry used to be taxed at 1% in the liquor board; we're now taxed at 58%, which aligns us with importers. That used to be the single biggest and most significant subsidy for our industry. That's gone now.

At the same time, subsidies in Europe and the US have increased exponentially in the last decade. In fact, just as is the case with the current softwood lumber dispute, our industry won a major trade challenge with the US back in the early 1990s. At the time, there was no WTO panel, so we took it to GATT. We won across the board on arguments that the US was violating trade agreements. We cited 70 violations. It ruled in our favour on all 70, and a few years later when it wended its way back through the US, Congress said to us, "Fine. We're doing nothing. Have a nice day."

Clearly, Canadians have a much higher commitment to our trade obligations than our trading partners, and that commitment means that our domestic industries often find themselves fighting an uphill battle in their own marketplace. So this bill may seem like a pretty bold proposal in light of our trade obligations, but in fact it's pretty modest, given the measures taken by other governments in their home markets to support their industries and in the export subsidies that are offered for those industries, particularly wine, to come here and market their products. However, if the government feels that their reservations regarding trade can't be overcome, then we believe changes should be pursued to address this challenge, given how critical the access issue is.

Some months ago, the wine council made a submission to the beverage alcohol review panel in which we proposed creating an alternative retailing channel, not to undermine the LCBO but to provide additional access. Again, I'll take you to appendix 2 in our submission, which is the very back page, which demonstrates to you that there is room for additional access without undermining the LCBO in any way. If you look at the very last column, retail outlets for all types of liquor per 10,000 population, you'll see that Ontario is vastly underserviced in relation to any other jurisdiction we looked at in North America, and this is the majority of major jurisdictions. We don't need to bring ourselves up to the level of New York or Pennsylvania in coverage, but even if we went as far as to at least mirror the number of available outlets in BC, we'd do a lot to increase access for our product to consumers.

There's clearly room for such an addition, and frankly, every other province in Canada has found a way to accommodate some level of private retailing, even when they've decided to preserve a liquor board system. It's certainly the case in British Columbia: They have cold beer and wine stores; they have VQA stores. It's certainly the case in Manitoba, which has opened up some private retailing alongside the liquor board. The Maritimes are moving in the exact same direction, and of course, as you know, Alberta has entirely privatized, but you don't need to go there to increase access to the marketplace.

If the government's reservations regarding trade concerns can't be overcome, we would frankly be quite comfortable looking at a proposal that broadens access to these stores to other beverage alcohol suppliers. We're not afraid to compete in our own market. We believe we're well-equipped to win that battle, and we have terrific products. We just need access.

I think the other thing we need to talk about is the margin challenge. Any model we contemplate has to address the issue of margin, because there's no point in giving us additional access to a channel we can't afford to sell into. The current tax structure imposed on wine sold through the liquor board is so onerous that small wineries often can't provide wine to that channel. We think that any new retailing opportunity has to address that channel, or small wineries won't be able to take advantage of it.

Mr. Hudak proposes one solution in this bill: making wineries the owners of the store system, thereby allowing them to hopefully reap a better return on their wines. This is a good proposal, and it could potentially solve that concern. Another option is the one we proposed to beverage alcohol: Give entrepreneurs the opportunity to purchase licences for available stores; let them, rather than the wine industry, pay the capital cost of setting up these stores and outfitting them; and then allow Ontario wineries, as the domestic suppliers, to deliver wines directly to those stores, just like they do to restaurants and, of course, as they do to their own stores. That's fair. It aligns with what happens in other countries with wine regions. If you allow wineries from Ontario to direct-deliver and allow importers to still go through the LCBO as the importer of record, that's another way of achieving the same goal of improving margins for the domestic industry in a new retailing option.

In conclusion, ladies and gentlemen, let me just say that access to the marketplace and margins for wineries are without question the most daunting challenges facing our industry today. If we don't find a way to solve these pressing concerns, we will not have a thriving, vibrant wine industry in the future. We think Mr. Hudak's bill provides the government with an important opportunity to address these pressing concerns, and we hope you take up that challenge.

The wine industry has also put forward suggestions to the beverage alcohol review that should be seriously considered. We no longer know what the status of that review is or where it might be going in the government's perspective. But we do need to understand that in a clearer way than we do now, because if we can't surmount the trade challenges posed by this bill, then we

think other options are going to have to be looked at seriously.

Our hope is that the government recognizes the serious nature of these concerns and addresses them, so that the industry can continue to grow, create jobs and offer economic value to the Ontario economy. BC has achieved this, and it's no accident that the BC wine industry enjoys a greater-than-50% share of the market in its own province, facing equally daunting competition. Surely we should be able to achieve the same gains in Ontario, where the wine industry is such an important contributor to the economy and the future of tourism and agriculture. Thank you.

1050

The Vice-Chair: Thank you, Ms. Franklin. Members, we have less than three minutes left, so each party will have up to one minute. For the government, Ms. Mossop.

Ms. Mossop: Thank you for your presentation. I understand why you support this bill. I do as well. In fact, when you were a cabinet minister, Mr. Hudak, that would have been the time, maybe, to get this through. But you know that the NAFTA thing is the challenge. The BC model keeps coming back, but as I understand it, there are only so many licences in Ontario. They're not making new ones since NAFTA, so I don't know how the small entrepreneur wineries will be able to afford to buy those licences. The way they did it in BC was to get agreement among all the wineries out there to share that space. Is that something your council is able to achieve?

Ms. Franklin: Well, in actual fact, the BC model—you're right—worked differently. They had what they claimed were a lot of licences in a drawer someplace, so no one gave up any licences. The BC industry magically stumbled across 12 and then magically stumbled across another six, and then a couple more. So we're up to 20 or 21 licences.

We, frankly, have not been quite able to figure out the difference between that and us saying, "Well, do you know what? There were a lot of wineries that were entitled to licences when the free trade agreement closed the door that didn't take them up. Why aren't those licences available to us?" We know, though, that the Ontario government at the civil service level has had grave concerns about this, has argued that it's very different than in BC. I think we'd be prepared to look at any model that allows us to move forward positively for everybody. I guess really we're just looking to the government to say, "All right, what can you live with, what can we do here?"

Ms. Mossop: But will your industry agree to share those licences?

The Vice-Chair: Sorry, Ms. Mossop, your time is up. Mr. Hudak?

Mr. Hudak: Thank you, Chair. I appreciate Ms. Mossop's point. In fact, I did bring this forward as a minister, and we worked to craft legislation that minimized the trade risks. We did have Liberal Party support in opposition at the time. I hope that will continue.

Ms. Franklin, thanks very much for an excellent presentation. I appreciate your approach suggesting that if there are ways to improve the bill, they should be pursued. BC is a good example. Where there's a will, there will be a way to overcome concerns that may exist, right?

One thing I'll ask you to reinforce is the point that the LCBO, as it currently is constructed, while it helps some wineries, will never really be a solution for the small and medium craft wineries.

Ms. Franklin: Sure. I guess there are a couple of points to make in that regard—again, just to say that they've been good partners; they've tried their best. We have a craft winery program now that tries to bring in smaller producers and give them three years to hit quotas. Vintages, as you will know if you've been in there in the past couple of weeks, is doing a major wine promotion for Ontario.

Our challenge is simply that the liquor board's mandate is to move a lot of wine quickly. So when you see a whole bunch of wines from other countries on the liquor board shelves, you're not seeing a whole lot of wines from tiny, little producers from Australia or New Zealand; you're seeing the biggest wineries in those countries, with export power and marketing dollars behind them. The liquor board is an expensive proposition to sell into—very expensive if you're a small winery without a lot of product—and it's very difficult to meet their quota demands if, again, you're a small winery without a lot of product. So it's not the fault of the liquor board, I'd argue, that this isn't a good fit; it's the fault of the fact that the system is driving it increasingly to produce more and more revenues, which means faster-moving, bigger-volume products.

Right now, Australia is a better bet. They're priced higher than Ontario, generally. They can move volume quickly. They have a whacking load of volume to move. So unless we can change that mindset in the liquor board and say, "No, no. You need to be measured also on your success in moving Ontario wines and VQA wines," I think we're going to have trouble. I think even if we can change that mindset, it's awfully hard to have a very big system, which is what the liquor board has to be, nimble and responsive to the needs of very small wineries.

The Vice-Chair: Thank you. Mr. Kormos.

Mr. Kormos: I quite frankly appreciate your last comment, because I really think that's the objective of the exercise. In my view, it's imperative that the LCBO, our publicly owned marketer/retailer of wine, spirits etc., be the critical player. So you and I will disagree, I suppose, for a long time about the increase in the privatized liquor stores, but that's OK, because there's a whole lot of other areas where we can agree.

VQA sales softening: Explain that. I know what you mean, but why?

Ms. Franklin: I think there are a lot of reasons for it. We're still struggling to get a really good handle on it in the industry. I think it's driven by a number of things.

Increasing Australian competition would be first and foremost. They're driving a whole lot of really great wine into our market at really, really competitive prices, and they've got a lot of money to do it.

We've had three really tough years. We've had ladybugs; we've had two crop failures. None of that has been helpful to the VQA. And we're just faced with a whole lot of really intense competition, generally speaking.

That's not to say, frankly, that we can't do a whole lot better. I think we can. I think that when we get to the next harvest, and there's a big harvest and it's great wine, that will help. I think our new producers coming on-line will help. But I also think that if we're really going to target consumers' mindsets, we have to show them the breadth of what's out there. You, Mr. Kormos, have been to Cuvée before. I think that consumers who get a chance to go to that and see the breadth of the wonderful things we have to offer come away with a very different understanding of what Ontario does as a wine industry than when you walk into the liquor board and see a very limited range.

The Vice-Chair: Thank you very much, Ms. Franklin.

GRAPE GROWERS OF ONTARIO

The Vice-Chair: The next deputant is the Grape Growers of Ontario. Welcome, and please identify yourselves.

Ms. Debbie Zimmerman: Good morning. My name is Debbie Zimmerman. I'm the CEO for the Grape Growers of Ontario, and with me is our chairman. We refer to him as Chair Ray Duc, just to make sure that it's gender neutral.

It's a pleasure to be here this morning. I'd just like to give you a bit of background about what we do. Since 1947, the Grape Growers of Ontario have been the voice for grape growers throughout the province and have worked on their behalf. We continue to do so with pride.

We are the official lobby organization for over 530 grape growers and processors. We represent 15.3 million vines, on roughly 17,800 acres, from four growing districts in Ontario: Niagara, Pelee Island, Lake Erie North Shore and Prince Edward County.

We serve as a liaison between grower members, industry stakeholders and government. We direct our efforts toward our mission statement, which is "to have Ontario-grown grape products demanded worldwide, and to achieve sustainable growth and profitability by creating an improved environment for Ontario-grown grape products."

In the recent report of the Beverage Alcohol System Review Panel commissioned by the Minister of Finance, the Honourable Greg Sorbara, it is stated that, and this came right out of the report at page 33: "We agree with grape growers and wineries that the future of Ontario wine depends on increased consumer awareness of 100% Ontario wine, and specifically wine bearing the VQA mark."

The Grape Growers of Ontario support the concept of VQA wine stores as one way to increase consumer awareness of 100% Ontario grape content in wines. However, when considering the VQA stores, it is important that there be more than one store in this province and that these stores be placed in high-traffic areas.

When looking at the grape industry in its entirety, it is important to realize that VQA-only wine stores are not the only solution to supporting grower viability, especially those growers in a greenbelt. We need long-term, viable solutions to improve opportunities for Ontario-grown grape products.

We believe there is a vast difference between being a world-class wine region and having a couple of successful wineries. Ontario's goal should be the former. World-class wine regions share certain characteristics, and among them are:

—content and labelling rules to require the use of local product;

—a level playing field for new entrants;

—a distribution system that lets new wines attract notice;

—government tax policies that support local wines; and

—a healthy value chain of growers, producers and distributors.

The Beverage Alcohol System Review Panel reported, "Ontario's smaller vintners are concerned because there are limits on how far the LCBO can go towards putting every Ontario wine on its shelves." Distribution through the LCBO is difficult for small wineries because of its listing and merchandising practices. The LCBO sets minimum volume requirements that most small wineries cannot meet.

Small or new wineries, those wineries post-1993, need increased access to markets in order to sell their wines. Currently, they are restricted to selling through a single on-site winery retail store, often in a remote rural location.

1100

A fair and open distribution system for all wineries through the LCBO is needed. One way to achieve this is to provide dedicated shelf space for small wineries in the LCBO. In turn, this would allow small wineries the opportunity to market their VQA wines to consumers through another outlet other than an on-site winery retail store.

We have to commit to grow Ontario. In a greenbelt, it is crucial that the government support Ontario-grown products. The government must support and promote the VQA brand—100% Ontario content.

Support VQA wineries: We must recognize the greater contribution that VQA wineries make to agricultural viability and employment compared with pre-1993 blending wineries. We should also allow VQA wine to be sold in all winery retail stores, as the original intention of these stores was to promote Ontario product. This would provide the best value to Ontario taxpayers.

Ontario is unique among wine regions in allowing foreign product to be imported and blended with Ontario product and labelled as "cellared in" product. Ontario wineries licensed before 1993, through the Wine Content and Labelling Act, are allowed to blend an Ontario wine

at 70% foreign and 30% Ontario content. As has been mentioned, the current short crop memorandum of understanding, through the government and with all-party signature, must remain committed to achieving 85% Ontario product and 15% foreign product by the year 2010 to be sold under the Ontario wine banner. We are recommending and will insist that this be taken one step further and we advocate that all Ontario wines, by 2011, to be called an Ontario wine, be 100% Ontario content. The strengthening of Ontario content rules by increasing the Ontario content in a blended bottle of wine will support the vitality and viability of the grower.

In light of the greenbelt and the damage sustained to vineyards this year due to a harsh winter, mechanisms need to be put in place to support the grower. Both the federal and provincial governments are needed to support a national replant program. In addition, growers need financial support for infrastructure enhancements, whether they be wind machines or irrigation. This will allow the grower the opportunity to keep growing and planting high-quality grapes for VQA wines. Replanting the vineyards must be part of a long-term strategy to grow the VQA wine industry.

There are two industrial pre-1993 wineries that own 265 of the 290 off-site winery retail licences. According to the LCBO, no new off-site winery retail licences can be granted. There is a need for winery retail licences to be distributed more fairly. The Grape Growers of Ontario support the panel's recommendation to auction off licences of retail outlets and limit the number of licences that one bidder can have. We urge the government of Ontario to move on the beverage alcohol review panel recommendations. We believe this is a critical part of our future.

These licences were originally intended to support the growth of Ontario wineries, but the current monopoly of these licences has virtually stunted the growth of VQA. A redistribution of these licences could be one method to create VQA wine stores, and it would create an outlet for our smaller producers. The report also calls on government to increase support for small producers by reducing the rate of government charges on wines.

We recommend and support the need to reduce the markup for Ontario VQA wines sold at the LCBO. For example, the LCBO has increased the markup, as you have heard this morning, from 12.8% to 58%. It is not surprising to hear today that if VQA stores follow the current LCBO model, there would be little buyin by wineries to be part of a VQA store system.

The GGO supports the VQA store concept, but without a fair distribution of stores throughout Ontario and tax strategies that support our smaller producers, the VQA store concept will remain just a concept. The VQA store system is part of the solution but not the whole solution. We are convinced, as growers and producers, that the VQA store system is part of a complete restructuring of the alcohol distribution system in this province. We need an environment that nurtures our small wineries as they enter into and grow in the marketplace. Thank you for your attention this morning.

The Vice-Chair: Thank you, Ms. Zimmerman. I'm going to start with the official opposition. We have five minutes left, so it will be slightly less than two minutes per party.

Mr. Hudak: Thank you, Ms. Zimmerman and Chair Duc, for the presentation. As I said earlier, congratulations to Ray Duc of the Grape Growers of Ontario. It was not an easy task negotiating an agreement to move beyond the short crop. It's a lot of work.

Maybe I could ask either Debbie or Ray: You talked about the importance, if VQA stores were to go ahead, of having a tax advantage that works for the small and medium VQA suppliers. Maybe you could go into further detail about that. I know you have a very good chart at the Grape Growers of Ontario office that makes that point in terms of the take the government has from stuff sold to the LCBO and how little actually trickles down to the grape grower.

Mr. Ray Duc: One of the major problems facing our industry is the taxation, and the small producers of wine cannot afford to distribute through the LCBO because of that. If you're producing hundreds of thousands of cases, yeah, you can take a little bit per bottle and you'll show a profit at the end of the year. If these VQA wine stores are set up through the LCBO, I imagine the same tax structure would be in place and there would not be a benefit to the small wineries. They just simply cannot afford to sell at that low a markup.

Mr. Hudak: So you believe that whatever the model—and hopefully some model would go forward—it has to mimic the tax structure that currently exists at the wineries themselves.

Mr. Duc: That's correct; some kind of direct delivery system to something like what Linda was talking about also.

Ms. Zimmerman: If I could comment on that as well, I think trade barriers have been used significantly as an argument for a number of years, and it is a concern, but I would suggest that the beverage alcohol review panel had some phenomenal recommendations. If there is a parallel system, I'm not sure whether that would work. Maybe that's where we differ with the Wine Council of Ontario, but what we would suggest is that there are currently wine licences that were established before 1993 that could be auctioned off. With the number of wine licences currently, an opportunity could be created from that system for VQA stores. The monopoly is a part of the problem of access to market for our current wineries, especially our VQA wineries, and that was very well documented throughout that report. I would suggest we use that report as a beginning for discussion on how we change the future of the distribution system in this province.

The Vice-Chair: Mr. Kormos.

Mr. Kormos: Thank you, both of you folks, for coming to today.

Mr. Duc: Thanks for coming to Niagara.

Mr. Kormos: It's an important contribution, but you're preaching to the converted. Mrs. Van Bommel is a

farmer; Ms. Mossop lives just a block away; Craitor lives in Niagara Falls and drinks the occasional glass of wine; McMeekin even more so; I won't speak about Hudak, but I know I drink my share of wine. But we're the converted. The problem is, you say, "Come to Niagara." No, you folks have got to come to Toronto, because it's not the people on this committee who have to be persuaded, in my view. There's a whole lot of hyper-urban people—can I call them that? The closest they've ever been to a vineyard was when they smelled the scent off the cork of a bottle of wine.

What about the national replant program? Tell us about that.

Ms. Zimmerman: It's an important component to moving the industry forward from varieties that we grow, and grow well. There are taste profiles to some of our varieties that cannot be reproduced anywhere in the world. For example, our Riesling is a phenomenal product that we produce. We need to get our growers into those varieties, and more hardy varieties, because what we've seen with the past winter damage is that the significance of those vines being able to sustain this winter damage is just not possible.

Mr. Kormos: What stage is this at?

Ms. Zimmerman: It's in discussion. I'm actually headed off to our nation's capital to sort of push the issue. But we need Ontario as one of our partners. Ray can certainly speak to why it is so critical for growers for the future.

Mr. Kormos: They've got to hear about how urgent it is.

1110

Mr. Duc: In the past three years, 2003 to 2005, we've suffered tremendous damage in our vineyards. Our vineyards are hurt to the point where we're almost not competitive on the world market any more. Because of the harsh winters, we haven't had the income to keep our farms properly replanted. So we need help.

The program that Debbie mentioned is a three-way program—federal, provincial and growers—each putting in $4,000 to get these acres back to a level where we are competitive with the rest of the world and with the varieties that we can do here. It's a very important program to the future of our grape-growing industry here.

Mr. Kormos: It sounds like something for question period come October. Right, Mr. Hudak?

Mr. Hudak: Come October.

Mr. Kormos: We wanted to be back earlier.

The Vice-Chair: From the government, Ms. Mossop.

Ms. Mossop: Thank you very much for what you've done. I want to congratulate you also on your participation in creating what I think is a huge step forward in the memorandum of understanding and setting a foundation to go forward with this industry.

I mentioned earlier, before you were here, that I've been following this my entire career. I'm very passionate about the grape and wine industry. I watched it mature, and I know it has a tremendous future.

I mentioned something earlier about, "You should have done this when you were a cabinet minister." That wasn't a shot. It's because I really would like to see this happen, but you know the challenges we face around NAFTA. You know how timid we are around NAFTA as a government, regardless of who's driving the bus. What we really need here is not to be politically clever, not to make political brownie points; we need to be co-operative and creative and find a solution. We've danced around some issues. Vintages doesn't have the shelving issues, but it has a tax issue. At least that's a place where we could definitely promote VQA in a bigger way, and we need to push that with the LCBO—excellent suggestion. I've been working on the same piece about promoting Ontario in general.

Finally, it's this licence piece. There are only so many licences out there. We know who has them. We know the suggestion of auctioning them off is probably a good one, but do you think now, as we move forward in the industry, we can get that kind of willingness to share those licences to be auctioned off? What needs to happen there so we can do that piece? How can we loosen those up?

The Vice-Chair: Can you answer the question in 30 seconds?

Ms. Zimmerman: You're kidding, right? I'll try. Certainly what we think—

Mr. Kormos: Unanimous consent. Take your time.

Ms. Zimmerman: Thank you. I appreciate that. I think what is important is the suggestion we came up with, because the auctioning off of the licences would be one opportunity to create access to licences for VQA stores, which is why we suggested it, not trying to create a parallel system. We know the trade barriers and, as you've pointed out, every government would be sensitive to those trade repercussions, and we appreciate that.

We believe that the beverage alcohol review actually came up with phenomenal opportunities to create what member Hudak has suggested. Everybody's willing to work to come up with that solution, if that is a way in which we can get this done. We believe VQA is our future. We appreciate the work that's been done on this bill, because it is needed for our future. I think it is one opportunity with the current licence system to reconfigure that so it has access for all of the wineries, not just a few wineries.

The Vice-Chair: Thank you very much.

CROWN BENCH ESTATES WINERY

The Vice-Chair: Our next deputant is the Crown Bench Estates Winery. Welcome and please identify yourself.

Mr. Peter Kocsis: My name is Peter Kocsis. I'm the owner of Crown Bench Estates Winery. First of all, I would like to thank the panel for coming down. I would like to thank Mr. Hudak for being involved in this issue—very critical. I would also like to mention that I'll probably be one of the few people who actually has two members of Parliament sitting. I am a resident of Dundas and Mr. McMeekin, with Mr. Hudak, is my member of Parliament.

Having said that, I'm not going to make anybody's life really easy. I'll start with the notion that, by definition, agriculture includes marketing. It is a fundamental right that has, through the years, especially with beverage alcohol, been denuded to the point where we're having to do this kind of gerrymandering, if you will, of the system.

It would seem to me that at some point the rules and regulations, when they conflict with fundamental rights, have to be examined. I think we've reached that point. While one can understand why society as such, our government in Ontario, would look at regulating beverage alcohol, I would also like to point out that wine is more than that. It's a food; it's a medicine. As such, when we have our fundamental rights to market it denied, several problems occur.

I would like to quote, if I may, a few sentences from the beverage alcohol review, basically from the executive summary. If you will bear with me for a second, I will try this:

"Our stakeholder discussions also demonstrated that after 78 years of evolution, today's system is neither as rational nor as flexible as most stakeholders think it should be. Nonetheless, it is our conclusion that stakeholders have learned to function within the system, even though that means adopting or maintaining business practices that would not have been pursued in a more open economic environment.

"Through our consultations we came to understand that stakeholders have an investment in today's system. It did not surprise us when they said they favoured only modest changes to the status quo. While we appreciate these concerns, we find it difficult to agree that major change should be avoided at all costs."

I would like to state that I am in agreement with that. Our access to market is based, as I said, on our fundamental rights, and these now have been abrogated for different means.

Of course, the devil is in the details of this particular bill. Merely setting up one more VQA store or three more VQA stores or six more VQA stores realistically is not going to help 80 wineries get their product to the system on a rational basis. It will help. We're grasping at straws, and merely having this discussion is helpful, but we will have to come to a fundamental understanding of who would run these stores. Would it be a partnership of wineries? Would it be the LCBO? Would it be the VQAO? Would it be the wine council? Would it be the grape board? We have no criteria by which to decide how wines will get into the system.

We're one of the few jurisdictions—probably the only jurisdiction, as far as I know—that make it a fundamental entry to the market to have a dual test. Most appellation control systems merely say, "You grew this wine in Château Margaux. You're Château Margaux. Off you go." In Ontario, if you grew it in the Niagara Peninsula and you still want VQA on it, it has to go through a tasting panel. I'll refer back to the sentences I read about the stakeholders having a vested interest. Since the rolling of VQA into VQAO, statistics are available. One of the things that we've noticed is that there is an inverse relationship being built between the number of awards a wine wins and its mark coming out of the tasting panel. To put that in a positive note, the better your wine, the lower score it gets at the LCBO tasting panel. There are various reasons for this, and we could go on, but again, it's a fundamental part of the system.

The ready-to-drink wines which predominate the LCBO—statistics show some 99% of all wine leaving the LCBO is drunk within four hours, so marketing into this kind of system is hugely problematic. Marketing into an alternative system that would have similar attributes wouldn't solve anything. In other words, as the beverage alcohol review stated, to put it in other words, the emperor has no clothing. We're merely debating whether or not we're going to put an extra pocket on this thing by doing this.

1120

The system begins to regulate how things go. For instance, the grape board, which just finished its testimony, talked about replanting. One of the things that happen when you have a factory farm is that you have producers who produce for the factory farm, and the major criterion there is volume. You grow as much as you possibly can to make a living, pay the mortgage and feed the children. You're not growing quality wine; you know that.

I won't belabour the point of how the pricing system is set up, but merely say that if chardonnay at 100% is worth $1,000, and at 80% it's worth $800, but you can only grow two or three tonnes to get 100%, and you know darn well you can put eight tonnes on at 80%, figure out the difference. In one place you're getting really great grapes and you get $3,000 and the pride of having done this, or you get real plonk at eight tonnes to the acre and you make $6,400. People will make out the difference in their own minds.

Having said that, these vineyards having produced for these factory wineries are now in the position of having weakened their wines to the point of, "Yes, it was cold. It froze." Did everybody's freeze? No. Does location count? Yes. Do cropping practices count? Definitely. Now all of a sudden we're going, hat in hand, to the government to say, "Give us $12,000 to replant." Those vineyards that didn't go that route, which have practised sound management, are frozen out. So it gets to be a Kafka-type nightmare in terms of all this. Each level of our industry brings with it its own calculations, and these calculations don't necessarily have to do with quality wine and its distribution.

I again would like to thank Mr. Hudak for being involved. I think to a degree I've been hectoring him on this for a number of years. I hope that with the passage of this, our lives can be slightly improved.

The Vice-Chair: Thank you very much. The third party. Mr. Kormos.

Mr. Kormos: Thank you kindly for your contribution to the committee process.

The Vice-Chair: Ms. Van Bommel.

Mrs. Van Bommel: Thank you for your presentation. There are certainly a lot of things to think about. I hear you talking about the necessity to grow quantity to put food on the table instead of dealing with quality. How do we move away from that need? How do we get to the point where we promote the quality aspects?

Mr. Kocsis: Again, by fixing the system, establishing other fundamental criteria for payment for grapes. At the moment, the only criterion is sugar level. There are other criteria, including vineyard management practices, leaf plucking, shoot positioning and crop level. For instance, one of the recommendations I made to the grape board was to establish a gold or silver medal standing, if you will, or an A, B, C of cropping level. If you're going to be an appellation system, on the one hand we have this notion of having to go to a taste panel, which nobody else does, but on the other hand we don't have the cropping level legislation that other jurisdictions do have. In France, for instance, you can't willy-nilly grow eight tonnes to the acre in particular appellations. You are told (a) what type of grapes you're going to grow, and (b) at what cropping level. Now, getting that kind of thing passed and, again, protecting fundamental rights and all is usually problematic, but it's there.

The Vice-Chair: Thank you. Mr. Hudak.

Mr. Hudak: Peter, thank you very much for your presentation. I actually had a quick question for you, if you don't mind. You said you hector me as a constituent and local business—far from it. I mean, you obviously care very deeply about the industry, and you can see that reflected in the great wines that you produce at Crown Bench. In fact, members may know, Peter's wife is Livia Sipos, who was a recent Grape King, which is not a ceremonial position. It's a position of excellence in grape-growing, recognized by peers.

You made an excellent point at the beginning, and I made a similar point in my arguments, that one of the travesties here is that fundamental rights of access to market are abrogated under current regulations, that you can sell only at your own winery your own products manufactured only at that site. Others will argue, "Well, Peter could sell and Crown Bench can sell through the LCBO." Can you help explain why that's actually a fallacious argument, and how the LCBO, as currently constructed, is not an option for the small VQA grower and winery?

Mr. Kocsis: There isn't a rational system at the LCBO for intake, if you will. You submit your application. I'll give you an example, if you will—maybe two. The first one: I entered one of my wines in competition. I took a gold medal. I believe it was Air Ontario that considered it at that point. That came with an agreement on the part of the LCBO to purchase this wine. Having won, the LCBO sent us an application form. I sent it and I sent it and I sent it; I sent it seven times. With the LCBO, I maintain a log and have my fax machine print it out, and I staple it, so I have a notion of where it is. Seven applications went missing, at which point I talked to one of the representatives whom I was dealing with.

He was very sorry. "Would you submit it one more time?"

"Certainly. No problem." I'm trying to make the sale. That went missing. My question to him, then, was: "Tell me, is your fax machine directly over your paper shredder; one just feeds the other?" He said, "No."

I eventually submitted. They changed their minds. They didn't want that particular one; they would take another one. Would I mind if they took another one? I said, "No problem." Then all of this came to a 10-case order, after about three months. And it wasn't the wine that won; it was some other equivalent wine, but not the one that was there.

So I developed a fundamental relationship with this particular person, having gone through this. He said, "Peter, next time you're sending in an application, do me a favour. Call me. Give me a heads-up so that this thing doesn't get lost in the system." I'm sure if you ask any number of other wineries, they'll give you the same litany of problems.

Well, fine. I make my phone call earlier this summer, I'm submitting some wines to the LCBO, and as the discussion concludes, he says, "Oh, by the way, Peter, please don't submit anything over $12. It will be automatically thrown out."

The reality is that when you look at the average price of VQA wines at Vintages versus the average price of the rest of their wines, we're about a third. In other words, the LCBO won't put a $30 or $40 bottle—and I do have it. I have a Chardonnay at $30 that took top Ontario Chardonnay. I'm marketing it to other provinces, restaurants and so forth. Vintages won't hear of it, will not entertain buying it. By the way, this thing almost failed. It merely passed by a hair's breadth, and I knew then that it was going to be a really good one at the tasting panel.

1130

Having gone maybe a bit too far, let me say the following, a similar situation: I submitted a wine to the SAQ—every two years there's a judging—and I took a grand gold on a chocolate-flavoured icewine, the highest-ranking sweet wine in Ontario; in fact, the highest-ranking wine in Ontario, according to Quebec. I keep telling people that's both the good news and the bad news rolled into one bottle. It's non-VQA and because I messed around with icewine, it's no longer pristine and pure, it's no longer VQA, I can't sell it in Ontario. I'm selling it to every other province in Canada—well, not everyone, but a number of them—but I can't even talk to anybody. If I go to Vintages, they say, "It's non-VQA. We don't have to deal with it. Go talk to general list." When I go to talk to general list, they say, "Obviously it's an icewine. Go talk to Vintages." And that's it. They wash their hands of it. Toeing the line with the LCBO, which I believe the number is some 85% of the market, if you can't have access to that, you are really in trouble. The small wineries are really in trouble. High gas prices, SARS, 9/11, freeze-out etc., and we're getting nowhere in terms of how the system responds. The system responds to the factory wineries, not to the small ones.

The Vice-Chair: Thank you very much, Mr. Kocsis.

TOWN OF GRIMSBY

The Vice-Chair: I now invite the town of Grimsby to come forward. Welcome, and please identify yourselves.

Mr. Tony Quirk: Good morning, Mr. Chairman. My name is Alderman Tony Quirk, and with me today is Gerry Augustine, who is our immediate past chair of the Grimsby economic development advisory committee. Our current chair, Chris Hayden, unfortunately sends his regrets. He was called away on a work-related emergency, so I thank Gerry for coming.

I want to thank the committee for allowing us the opportunity to present to you this morning in support of Bill 7, the VQA Wine Stores Act. I know, listening to the other presentations today, that others will explain their positions regarding how the act would have an impact on the local wineries and Ontario wines overall, but I had hoped to explain in the context of our small town why we chose to support the VQA Wine Stores Act.

As I have stated, Gerry and Chris, who's not here, are members of GEDAC, our Grimsby economic development advisory committee. The town of Grimsby, being a small town, doesn't employ a full-time economic development officer, so we established GEDAC as a means to foster economic growth and explore our potential with a group of talented volunteers whose only goal is the betterment of the town of Grimsby.

Last spring, GEDAC passed a motion to support the VQA Wine Stores Act and forwarded the motion on to town council. At our meeting of March 21, 2005, the town of Grimsby passed a motion lending our support to the establishment of VQA wine stores. I have a copy of the minutes containing the resolution and I've asked the clerk to pass that out to everyone.

By way of introduction, let me say that Grimsby itself does not have many wineries. In fact, we only have two and half. I say two and a half because we have Kittling Ridge and Andrés, and Puddicombe, which is actually located in Hamilton, but they're so involved in our community that we count them as one of ours.

We don't see the VQA Wine Stores Act as being solely beneficial to the winery industry. In fact, we're supporting the act here today because it will serve our community in a couple of other important ways.

The concept of a store specializing in VQA wines would benefit our community in three immediate ways in the context of our current initiatives that we've undertaken in the town. First, GEDAC, in conjunction with the town of Grimsby, the Niagara Economic Development Corp. and the Ministry of Agriculture, Food and Rural Affairs rural development branch, has begun a downtown revitalization initiative through the OSTAR funding program, which Gerry, as chair, instigated and has been leading the charge on.

While this project is only halfway through, one of the major themes already emerging is the need for the downtown to provide specialty and boutique-style stores to challenge the department-store and big-box model encroaching on small-town Ontario. A local VQA wine store would be a perfect fit for this model of boutique-style retail development in the downtown.

Second, the town, in partnership with the Niagara Economic Development Corp., and hopefully the other Niagara region northern-tier municipalities—Lincoln, Niagara-on-the-Lake and St. Catharines—has undertaken an initiative to enhance the wine route. This initiative calls for the establishment of hubs along the wine route utilizing existing urban centres and boundaries to bring a cohesive and thematic approach for visitors to the area. Obviously, a large component of this project will be to drive traffic into the downtown and urban areas of the wine route with complementary retail- and tourist-based business. A VQA store would be an obvious addition for any municipality along the wine route and an added attraction for the out-of-town visitor.

Third, and certainly not least, with future development in Grimsby frozen under the greenbelt legislation, the remaining tender fruit lands have to be viable for the farmers and for the province. The requirement of 100% Ontario grapes for VQA wine standards should ensure that existing grape growers are able to market their grapes at a reasonable price for years to come.

If the small cottage wine industry is going to survive and thrive, the ability to market VQA wines through a dedicated venue such as a VQA wine store would increase demand for the product and provide an incentive to produce more VQA wines.

I won't pretend to speak for the grape growers' association, as they've already been here, but the grape growers I have talked to in Grimsby, at least, are excited about the prospect of VQA wine stores.

In conclusion, let me say that I sincerely hope that this committee will recommend the adoption of this act, and that the Legislature will call and pass the bill upon its return next month. Thank you.

The Vice-Chair: Thank you very much. That's the end of your presentation, right?

Mr. Quirk: Yes, sir.

The Vice-Chair: We'll start with the government.

Ms. Mossop: Thank you very much for coming and for your presentation, and for your support of this initiative. You haven't been here all day, but you may be getting the sense that it has the support of everybody in terms of the sentiment.

I have one short question and then a follow-up one. You're aware that the bill, as it stands now, is against NAFTA; it's trade illegal.

Mr. Quirk: I would suggest to you, Ms. Mossop, that as it stands now—I don't pretend to be an expert on trade negotiations—I don't think there would be anything to stop an American from investing in an Ontario winery, producing a VQA-quality wine and selling it at a VQA store. From that point of view, much as there's nothing to stop me personally from investing in a business across the border through NAFTA, I don't see that as being a huge stumbling block. I'm hopeful that smarter minds than mine will prevail on a way to solve the problem.

Ms. Mossop: This is the problem that Mr. Hudak ran into when he was a cabinet minister. He would have done

this then if he could have, but it was trade illegal. We're trying to work around this issue today to make this something we can all do. We want to do this; we want to make something happen.

Our beverage alcohol review commission made a recommendation that we somehow create a situation where the existing licences for VQA, mostly owned by the large wineries, can be auctioned off and shared, but that requires some agreement from the industry itself. As a government, we are trying to work with the wineries and the grape growers to come up with agreements like this so that we can move forward, so that we can break this log-jam. We need to be creative and co-operative around this piece and, I still think, in the short term promote and work with Vintages, where we do have some sway to get those wines into Vintages stores. But in the interim, do you get a sense that we can get that kind of co-operation within the industry itself so that we can break the log-jam and move forward and get around this trade issue?

Mr. Quirk: I would certainly hope that you could find some way to break the log-jam. I can't see that there's a huge incentive for people with licences to give them up, unless they're mandated to do so. But I hope that they would see the larger picture and the benefits to the grape growers by expanding the amount of VQA-quality wines that are available.

Beyond that, I recognize that there are some questions with respect to the NAFTA agreement. Just following the press of late, since our major trading partner seems to want to ignore certain tenets of it, I sometimes think that we have to be a little more aggressive in marketing our own products to our own people. My understanding of the general sentiment of NAFTA is that there's nothing that would stop an American company from establishing a winery in Ontario and getting a VQA-quality wine into a VQA store. So from that point of view, like I said, smarter minds than mine will have to deal with the actual trade ramifications, but if that's the only stumbling block, I'm certain that there must be a way to circumvent it.

1140

The Vice-Chair: Mr. Hudak.

Mr. Hudak: Mr. Quirk, Mr. Augustine, thanks very much for the presentation. I do want to thank Councillor Quirk in particular and your colleague Councillor Wilson, who seconded the motion, who were good enough to get it passed through Grimsby council and circulated to other councils that have similarly endorsed it, including Lincoln and Welland, who are here today.

Ms. Mossop asked you if it was trade illegal as if that were a statement of fact. It would be helpful to the committee, actually, if the government does have a legal opinion, to table that with the committee. I've asked for such and have not received it. If there is, then let's put the tremendous resources of the government to bear and actually find a solution to it. Instead of saying you can't do it, how do we find ways to amend the legislation or bring forward a parallel initiative to do so?

Certainly we, the previous government, weighed the issues and decided to proceed with this bill and introduced it in the House and had second reading passed. I want to see this become the law of the land.

With respect to the VQA stores in British Columbia, Linda Franklin was very, very clear, in very plain language, on how they obtained licences for VQA stores.

I appreciate your point too in terms of the specialty boutique shops, which would be an added feature which don't exist. As I said earlier, Wal-Mart is increasingly the LCBO's style of doing business: the big box, the large brands. I think we need the other part of the system, which are those boutique wineries. If you had your advice to the committee and to cabinet, where would you place these types of stores?

Mr. Quirk: Right from the get-go we could immediately see a benefit of this sort of boutique store for a revitalized downtown, as I mentioned in my presentation. We are seeing a larger call, especially within the old towns, for this concept of wanting higher-quality, specialty-type stores in our downtowns. This would be, in my mind, where the VQA stores would be ideal.

Over and above that, I've kind of looked at it simply from a Grimsby-centric point of view, but I would defer to Gerry if he has any other comments with respect to that.

Mr. Gerry Augustine: We made a conscious decision shortly after GEDAC started, which was a year and a half ago, about what areas we were going to focus on. One of the main areas, especially for Grimsby, with the big box store coming in, was downtown. We looked at what we could do to help downtown. One of the first things that came up was developing a VQA store, not only for the natives but also for the tourists. We have never wavered from that thought or idea. As we're working on downtown restructuring now, we certainly expect that to be one of the key stores or key items to have for downtown. As I mentioned, that's been our focus basically from day one. Once we figured out what direction we were headed in, that was one of the first items we thought would be perfect to have in our downtown. So we're fully, fully supportive of it.

The Vice-Chair: Mr. Kormos.

Mr. Kormos: Thank you, gentlemen. It is so pleasant to see this tripartite collaboration and co-operation. I say that tongue-in-cheek—partially in cheek.

My support for this whole concept is of course dependent upon the retail delivery being done by the LCBO. But I as well believe that it's using that approach that we can most readily overcome any conceivable arguments raised around trade agreements. Prima facie, there probably is a trade issue, but I don't think it's very difficult at all to design this in such a way that it isn't a violation.

This tripartite co-operation and this sense of goodwill will be tested at the close of today's committee hearing, because, you see, this bill has been allowed one day in committee by the government. It originally had been referred to the standing committee on general government, but this is not the standing committee on general government; this is the standing committee on regulations and private bills, which is not a misuse of the

committee, because any standing committee can consider any matter, but it's not the usual sort of thing that the committee hears. So Mr. Hudak will test the extent of the collaboration and co-operation at the close of today's committee hearing. If this bill gets referred back to the House after today, it will go into legislative orbit and never, ever land, because it will not have undergone any amendments. If the bill remains in this committee, it will be sent into a legislative black hole, because this committee will always have government business to supersede this bill. You understand what I'm saying, Mr. Hudak?

Mr. Hudak: I worry about that.

Mr. Kormos: I worry about it too.

So the real test of the tripartite co-operation and the goodwill that's been spoken of will be at 6 o'clock or so today. I'm not going to tell Mr. Hudak how to deal with his bill, but perhaps when he seeks to have the bill discharged from the standing committee on regulations and private bills and referred back to the committee on general government so that it stays alive—we'll see whether the spirit of co-operation and collaboration remains within this committee at 6:45 today, as evident as it is now, when Mr. Hudak asks the committee to entertain that sort of motion so as to ensure that the life isn't squeezed out of this bill by the workings of parliamentary procedure. We'll let you know. Thank you, gentlemen.

The Vice-Chair: Thank you, Mr. Kormos, and thank you, gentlemen.

TOWN OF LINCOLN

The Vice-Chair: Our next deputant is the town of Lincoln. Welcome.

Mr. Bill Hodgson: Good morning. First of all, I'd like to thank you for giving me an opportunity to present just a few brief thoughts regarding the concept of VQA stores. I'd also, of course, like to welcome you to the town of Lincoln. We're sitting here in the middle of my very warm town, the heart of Niagara's grape and wine country. Today we are also a community that wants desperately to believe in the promise of prosperity and sustainability in the midst of the new greenbelt's protected countryside.

The council of the town of Lincoln has passed a resolution in support of the concept of VQA stores. However, our interest goes well beyond the context of simply showing support for and advocating on behalf of our growers and wineries. All of the ratepayers in our greenbelt community, whether or not they have any direct involvement in the wine industry, have a major stake in the future of our grape and wine industry. I want to point out that my comments are probably going to be a little less on the technical side, as many people have much more knowledge about the technical aspects of this bill. I want to talk about the symbolism of it.

Throughout the long set of consultations leading up to the establishment of the greenbelt, our community has been repeatedly assured by various proponents of a permanent protected countryside that our developing grape and wine industry and the associated agri-tourism will be such a powerful long-term economic engine for our community, generating jobs, assessment growth and local prosperity, that we should not really bother ourselves over lost opportunities for urban industrial and commercial development.

There are still those, of course, who believe that this theory is more solidly grounded in popular urban mythology than in economics and crop science. However, our community has made a leap of faith. We are working hard to make the greenbelt work; provincial legislators have really given us no choice. We certainly want to believe that the commitment exists in Ontario to grow a truly domestic wine industry that is identifiable and proud and is based upon fair market access, integrity in labelling and locally produced grapes.

1150

Through the deliberations of this committee, provincial legislators can give our community and others throughout Niagara's wine country a little show of good faith with regard to your commitment to the greenbelt and its long-term sustainability. And believe me, the faith of our greenbelt community ratepayers is severely challenged by recent developments, not the least of which, I have to mention, is that the introduction of the Ontario community partnership fund as a replacement for the CRF has resulted in the four municipalities comprising Niagara's wine country losing a combined $4.2 million in annual transfers from the province. For the town of Lincoln alone, the loss of $732,000 annually represents 11% on our local levy. It's this kind of thing that makes it a little difficult for us to tell ratepayers that the province—and this refers to all parties—is committed to our greenbelt.

We have repeatedly heard that having VQA storefronts in major markets is impossible because of NAFTA regulations. I'm sorry—and again this goes to the symbolism—people will have to find a solution, because this simply will not sell here. We have all seen the creative gymnastics employed by our neighbours to the south with respect to softwood lumber. I can tell you that at town hall I try to impress upon our staff, "Service to your clients comes first, and then you take a look at the regulations you must comply with and figure out a way to do both." It's called creative compliance. I think that all of you working together, one way or another, symbolically must find a way to get past what seem to be barriers. Simply stating the barriers just doesn't cut it, because we must have a show of commitment from the province for the greenbelt. I just can't impress upon you enough how important that is.

We all want to see a locally developed wine industry. We know we're not going to get there by simply making international wine, so we need to find a way to support what is supposed to be the future. I would implore you to work together and not have this disappear, because that would send one more important symbolic measure to the community. It's just getting quite difficult for us to

believe in a greenbelt and long-term sustainability and the commitment of all of Ontario. We've always impressed that upon everyone, that the greenbelt is for everyone, and therefore the commitment has to come from everyone.

I'll leave my comments there. Thank you for allowing me to present them to you.

The Vice-Chair: Thank you, Mayor Hodgson. The official opposition: Mr. Hudak.

Mr. Hudak: Thank you, Your Worship, for another excellent presentation to a standing committee, and thank you very much to the community for hosting the legislative committee here in Jordan today. It's a great opportunity, as we can see by the presence of municipal leaders, industry leaders and fans of the Ontario wine industry and grape growers, to have their voice amplified by these hearings, and we thank you for hosting them.

I think you make an excellent point. It's one thing to point out barriers; it's another to try to find ways around them. I think this committee, working together, hopefully with the support of the incredible resources available at the ministries, can help us make this vehicle a reality. I don't care if it's on, you know, blue paper, red paper or orange paper or whose name is on the bill, as long as it gets done.

I've had John Clancy in my Queen's Park office and Frank Notte here in the back, and we'll do our best, but if there is advice that comes back to the committee through the ministry offices about how we could amend this bill to make it a reality, I think we would meet with the requests with the honourable mayor of Lincoln.

Maybe you could emphasize a little more to the grape-growing areas here in Niagara—I mention Lincoln, Grimsby, Pelham, Niagara-on-the-Lake—and how they've been impacted by the greenbelt and how this will help, or anyway make steps toward a rebalancing.

Mr. Hodgson: I know that there are many complex problems facing the industry, as we've heard, just listening to Peter Kocsis, and he could go on, because there are complexities that are not going to be resolved by this. But at some point we have to decide, are we going to genuinely create a wine region? If we're going to create a wine region, we absolutely must allow the consumer to have access to the wine region, which is what VQA represents. It's the best of the wine region. It is the product of the wine region. If we are going to thrive as an agri-tourism area, quite simply, we can't rely on people making a mistake in coming off Jordan Road. It has to be much more inviting than that.

I've heard recent comments that consumer studies show that people access VQA through blended wines. Quite simply, it would be easier for them to access VQA through the front door of a store, because then they would understand what those wines are. There are also a lot of people who cannot hop in the car and just take a day or two and discover wine country. But many more would if they had access, if they could go into a VQA store and ask, "What is VQA anyway?" We could in fact be promoting the wine region through those storefronts in the big markets. I really do think that it's critical as a step to market the whole region, as opposed to simply selling the wine.

The Vice-Chair: Mr. Kormos.

Mr. Kormos: Thank you very much, Your Worship, for your attendance here today and for your participation. You have been a very effective and highly involved spokesperson, not just for your community here in Niagara but as part of that team of politicians in Niagara speaking up at Queen's Park around the viability of, yes, our greenbelt and the communities that are within that greenbelt. So I appreciate what you're saying today.

What you do, though, is highlight the need for this not just to be the focus of, let's say, the Ministry of Agriculture—because we no longer have a Ministry of Consumer and Commercial Relations; it's the supervision of the LCBO, because I believe the LCBO is a critical partner here—but also the Ministry of Tourism. We're talking about this all being part and parcel of the same sort of thing. I won't purport to speak for our Niagara colleague Jim Bradley, but I know that he is a committed Minister of Tourism, and the rest he'll say for himself, and I'm confident that he and his staff could play a very valuable role in this whole discussion. You're talking about that whole broader concept of agri-tourism, the interplay and relationship between small-town urban Niagara and greenbelt rural Niagara and active rural Niagara—in other words, green space that's being farmed, that's productive in terms of food.

The message this morning, loud and clear from you, amongst others, is that Andy Brandt should be here answering some of the questions that have been posed about him and the LCBO. I don't say that because I'm not a fan of Andy Brandt; I am a fan of Andy Brandt. But he should be here and, quite frankly, the Ministry of Tourism should be here.

I think we need some clear answers on this business around trade. Surely there have been some high-priced, well-paid-for legal opinions that are sitting around in any number of ministries or the Premier's office itself. I can't for the life of me think that nobody has bothered to get a legal opinion. Well, let's see them. Let's get this stuff out in the open. This discussion has the potential to rebuild the foundation under agricultural Niagara, and that has the potential to have impact for decades and generations to come. It could be a truly important move if done properly.

This surely can't be the last day of committee hearings. I know that at this point only one day was permitted by the government. My concern is that this bill will disappear into a black hole. I think the issue is far too important for this discussion to be terminated that way. We've really got to commit, all of us on this committee, to discuss this in a broad-based way.

Thank you very much for your participation. You've been a very effective voice. I hope your constituents know that.

1200

Mr. Hodgson: If I might also just point out, in the greenbelt legislation there is a clause, I think quite

rightly, that actually suggests that the Minister of Municipal Affairs would in fact coordinate all the actions of the various ministries, to ensure that whatever decisions are made in a whole host of areas that impact the greenbelt are coordinated so that they're working in a positive way. Thus far, it's not being done really well, as I think you know. I would just urge everyone to consider that, because it's so critically important that those actions not run counter to one another. If the greenbelt is going to be successful, it relies on every ministry that has an impact to coordinate their actions so that the left hand knows what the right hand is doing.

The Vice-Chair: Ms. Mossop.

Ms. Mossop: I'm just going to quickly comment on that last piece. You're absolutely right; there's some breaking down of silos around those ministries that we are committed to doing. You're absolutely right about agri-tourism and promoting Ontario.

You mentioned that stating the barriers is not enough. But ignoring the barriers is not enough. Mr. Hudak mentioned that when he was a cabinet minister he was working on these pieces and trying to come up with things, so I'm assuming that he sought legal opinion around this at that time, which is why he didn't do it then.

Mr. Hudak: We did it.

Ms. Mossop: You did?

Mr. Hudak: We put the legislation forward.

Ms. Mossop: On VQA stores?

Mr. Hudak: It's the exact same legislation.

Ms. Mossop: And what happened?

Mr. Hudak: It got support from the Liberals and the Conservatives for two readings.

Ms. Mossop: Then what happened?

Mr. Hudak: You might forget: You guys won the election and it's been dead since.

Ms. Mossop: So it died on the order paper. OK.

Mr. Hudak: You guys won the election.

Ms. Mossop: Did you seek the legal opinion? I guess that's what we need to know. As minister, did you seek that legal opinion?

The Vice-Chair: Members, can we not have a dialogue at this time? Ms. Mossop, do you want to ask a question?

Ms. Mossop: I'll ask that later and get that answer. We will find that piece for you. But we can't ignore the barriers to this either, because we want to make it happen. There isn't a person at this table who doesn't want to see our Niagara grape and wine industry and the communities within the greenbelt flourish. You have made the leap of faith. There is the faith in that dream of Napa. I think we're seeing some, but as a government, yes, we know we have to support you as much as we possibly can. It's not enough to ignore the barriers; we need to get around that piece. It's not reluctance on anybody's part; it's finding a way to do it.

What's come up a couple of times today is that there's a recommendation from the Beverage Alcohol System Review Panel that our government put forward with regard to the existing licences for VQA stores. The lion's share of them happens to be with the larger wineries. We're aiming at seeing if maybe that is a way, if we can get the industry to agree, because we think the less mandating, the more agreement, the more will within the industry, the better, to share those licences in a more equitable fashion with the smaller wineries, with the ones that were excluded by NAFTA essentially.

The Vice-Chair: Thank you again, Mayor Hodgson.

NIAGARA NORTH FEDERATION OF AGRICULTURE

The Vice-Chair: I now invite Niagara North Federation of Agriculture to come forward. Welcome, and please identify yourself.

Mr. Albert Witteveen: My name is Albert Witteveen. I'm the chairman of the Niagara North Federation of Agriculture. I'm a full-time poultry farmer and also a municipal councillor in West Lincoln.

Thank you for giving us this opportunity to speak this afternoon. I just have a brief statement. I will start with our mission statement, vision statement and value statement so that you'll get a background of the organization and what it stands for.

Our mission statement: "The Niagara North Federation of Agriculture is an agricultural organization dedicated to achieving economic and social viability for all Niagara agricultural producers through strong, effective, unified lobbying and communication efforts."

Our vision statement: "To produce an economically healthy, secure agricultural industry in Niagara that will encourage farm renewal, through a new generation of producers."

Our values statement: "The directors of the Niagara North Federation of Agriculture will maintain a strong, unified, professional image to our members, consumers and elected officials."

Starting my brief presentation this afternoon, the Niagara North Federation of Agriculture is an organization with over 1,100 family farm members. The mandate of the federation is to promote and protect agriculture in the Niagara Peninsula. Niagara offers the most diversified area of food production in all of Canada, and agriculture has proven to be the economic mainstay in Niagara.

The directors of Niagara North have reviewed the proposed Ontario VQA Wine Stores Act, Bill 7, and would like to comment. The Niagara North Federation of Agriculture supports the proposed Bill 7 in principle. Agriculture in Niagara has faced several severe setbacks over the last several years. We continually battle the weather, market demands and political restrictions. The passing of the Greenbelt Act, amendments to the provincial policy statement, which include the loss of retirement severances, and the many proposed regional changes have made surviving in the agriculture industry even more difficult.

This bill is being introduced at a critical time. Grape growers are facing devastating losses to their crops due to

drought and severe winter injury. It is difficult to comprehend when you are driving through grape country and see acres of green foliage. That is all it is. Several of the varieties, such as Merlot, have been severely damaged and it will take years before they are back to full production. Grape production this year will be at an all-time low. There is great quality but the quantity has diminished. All of the grapes this year will be made into high-quality VQA wines. It is essential that these wines be promoted and exposed for what they are: 100% Ontario content. We can make the wine, but due to legislative and financial constraints, we require assistance in marketing the product.

This act comes at a critical time because of the lack of supply. The grape board has agreed to a change in the wine content act. For this year only, cellared-in-Canada wines only need to have 1% Ontario juice content. This will allow most of the quality grapes to go into VQA wines.

If properly executed, the development of VQA wine stores will enhance the grape and wine industry. It is essential that there be more than one store and that the stores be placed in high-traffic areas. It is also essential that the stores be set up so that all wineries, no matter how small, are able to market their product through the VQA wine stores. Many of the newer and smaller wineries are currently struggling and need a venue to market their product. They presently rely on the tourist industry to survive. If the stores are placed in any of these areas, it will reduce visitation to the smaller wineries, putting them at a further disadvantage.

This is a great beginning. If this act is passed, it will certainly increase the awareness and availability of VQA wines made with 100% high-quality Ontario grapes. It is essential that other avenues also be pursued. Other options that should be reviewed include increasing shelf space at all LCBOs, reviewing the Wine Content and Labelling Act, allowing only VQA wines to be sold in wine retail stores and supporting an awareness campaign so that consumers understand what they are purchasing.

The agricultural industry in Niagara generated in excess of $511 million in gross farm receipts, $400 million in direct sales, $562 in indirect sales and $832 million in induced sales. Agriculture in Niagara had a $1.8-billion effect on the Niagara economy. This is something to be proud of.

Give us the tools we need—research, irrigation and drainage programs and funding to comply with the Nutrient Management Act and source water protection act—and oversee changes to the wine content act, and the farmers of Niagara will be financially secure and prosper for many generations to come. Be proud of what is made in your province, and stand behind it. Put our own up front and centre, not back hiding behind foreign blends. VQA wines are 100% Ontario. Don't be afraid to let people know it.

The Vice-Chair: Thank you, Mr. Witteveen. The third party: Mr. Kormos.

Mr. Kormos: Thank you kindly, sir. The common understanding of our economy in Ontario is that automotive is number one and agriculture is number two. When we're reflecting on the news this morning that Buzz Hargrove and the CAW, in their negotiations with General Motors, are being confronted by the prospect of—what was it?—almost 1,000 jobs eliminated down in St. Catharines alone over the life of this proposed contract for the next three years, we better damn well start taking those active areas in our economy very, very seriously, because, dare I say, if we lose a thousand auto jobs in Niagara, I suspect that will either put agriculture at number one, if it's number two now, or come pretty darn close to doing that. I appreciate your comments.

1210

I've witnessed governments of all political stripes at Queen's Park. One of the problems is that urban representation dominates in the provincial Legislature. Advocates for agriculture, either because they come from that background themselves or because they understand how important it is, from so many perspectives—it's important culturally, it's important economically, it's important in terms of the integrity of the nation—are given short shrift. When I see farmers getting mad and circling Queen's Park with tractors and leaning on their horns, I say, if that's what you've got to do to make your voice heard, then you should be doing it more often.

It's a tough, tough business, and I just thank you—I know you've been an active spokesperson for a good chunk of time now—and so many others like you in the federation who have been speaking up and making yourselves heard at Queen's Park. All I can do is encourage you to keep on doing it, and we'll all do our best.

The Vice-Chair: Thank you. The government.

Mrs. Van Bommel: How are you doing?

Mr. Witteveen: OK.

Mrs. Van Bommel: It's good to see you again.

I have a question. You know that, as a government, we're in support of VQA and our wine industry and our grape producers, and we've worked out a memorandum of understanding with the wine council and the grape growers. One of the things we talk about in this bill—we support the concept, but we have the issue of the trade agreements. You're a farmer and you're in supply management, and you understand that there could be retaliation if we get involved in this. How would you suggest that we get around this? How can we promote the VQA and still manage to stay compliant with trade agreements we have right now and avoid retaliation in other areas?

Mr. Witteveen: Mrs. Van Bommel, I think sometimes that as farmers we're independent people and we're willing to take risk probably greater than the government is. I'm in municipal politics, and I see not a lot of risk-taking. When it comes to that, if you look at California, they secure their own industry. When you go to France, you won't find Ontario wines at the front of the shelves; they may not even be in the store. Personally, I don't think I would be overly concerned about retaliation for the simple fact that the quantity we're talking about is minimal at best in our global marketplace. Sometimes we

have to go out and take a risk to support an industry. It was mentioned earlier about softwood lumber and the countervailing duties for hog producers. These things have come in our favour and have still met opposition. We can play the same game.

I guess what I'm try to say is that this is something we believe in, and we must take a stand for it. There's always a certain element of risk involved, but I believe we should take that risk. Are our farmers not that important? Is our own country's food production not that important to then allow other countries to intimidate us with trade retaliation? Sometimes you get respect by taking a stand, by saying, "We are here to protect our industry. You protect your industry, and we respect that." I think at the end of the day, all parties will respect each other for protecting what they believe is good for their country or their people.

The Vice-Chair: Mr. Hudak.

Mr. Hudak: Albert, thanks again for being here, and congratulations to your own leadership both at West Lincoln council and with OFA North on this issue, as well as a number of issues like the greenbelt, among others.

I think you make an excellent point. We've heard that over and over again today. To paraphrase, in Ontario we're often boy scouts when it comes to these types of issues, where other states and provinces have been far more bold in their supports for their domestic producers, whether it's grape and wine or in other sectors.

Governments at some point need to decide whether they'll continue to be bullied by the importers or whether they'll stand up more strongly for the domestic industry. Linda Franklin from the Wine Council of Ontario spoke about how the importers currently have 60% or more of the shelf space and are always pushing for more. I expect Mr. Campbell to make that presentation later this afternoon on behalf of the importers who pay the salary. But at some point, I think you have to take a stand to support domestic industry. At some point, you have to think of the impacts it will have to support local farming and local tourism.

I asked this question a bit earlier on: If you were to walk into a VQA store at some time down the road, if this initiative goes ahead—I hope it does—what would you see in there? How would you picture it, ideally? And what type of locations would be best?

Mr. Witteveen: If there are 100 wineries in Ontario, I'd like to see each one represented in that store, and then I would like to see knowledgeable staff. I have a small retail operation on my farm. People shop and buy poultry products on my farm, but they also want to know how it is produced. People are distanced from the food chain and they come to a specialized store because at the grocery store it's just a fellow stocking shelves. When they come to my store, my family is well versed in the production of poultry; people want to know how it is produced. So when I go to a VQA store, I want to know what the labelling means, what the content means, who I am supporting. Also, just the general production: maybe pesticide use, maybe production, harvesting, how the product is produced. I think that will be the attraction of a VQA store, because it will be smaller, more personal and more informed.

I know the argument always is that people are looking for a $10 bottle of wine, but do you know what? People will spend $15 if they see the value. If you can show the value in a VQA store, that you are supporting somebody who's supporting our health care system and our whole society, then spending that extra $5 is justifiable.

That's what I would like to see, that nobody is excluded from getting shelf space and that there are educated people there who can talk about everything, right from planting to harvesting to production. An informed consumer is your best consumer.

The Vice-Chair: Thank you very much, Mr. Witteveen.

FEATHERSTONE ESTATE WINERY AND VINEYARD

The Vice-Chair: Our next deputant is Featherstone Estate Winery and Vineyard. Please come forward. Welcome.

Mr. David Johnson: Welcome, everyone, to our wine country. I'm glad everyone made it down today. Thank you so much for coming. Should I sit down?

The Vice-Chair: Please.

Interjection.

Mr. Johnson: He likes me standing. See, they're fighting already.

The Vice-Chair: It's up to you.

Interjection.

Mr. Johnson: That's right. Notice the jacket. And my hands are stained from Baco Noir. I was pressing grapes this morning—not my feet, my hands. I've come out to speak to you folks. I certainly appreciate the effort you're making for this industry. It's great also to be included a little bit in government. I think that's a privilege, frankly.

I'm Dave Johnson, and my wife Louise is here with me. We own Featherstone Estate Winery. We are a 23-acre winery. You can all go there for a little glass after the meeting—you've got two hours to get to Toronto; you could probably make it. It's 15 minutes up Victoria Avenue in Vineland. We have 23 acres, and we only make our wines from the fruit we grow on our site. That is our thing. We do not intend to be larger. From that amount of acreage, we produce between 3,000 and 5,000 cases. As I always say, Vincor spills that annually. We are actually Niagara's smallest full-time winery; there is no one smaller than we are.

1220

Just to reflect on our dear mayor, I thought his comments were great. I thought he really spoke well of the greenbelt legislation that the Ontario government, I assume, is committed to. This is a great opportunity to dovetail. I see a whole bunch of issues. I don't know how Mr. Hudak—I'm sure he planned this when he started this bill years and years ago—

The Vice-Chair: Mr. Johnson, sorry for the interruption. I think you have to sit down in order for this to be recorded properly.

Mr. Johnson: There you go; sorry.

The Vice-Chair: Thank you.

Mr. Johnson: I see this as a great opportunity for this bill to be dovetailed into a whole bunch of issues that are before Ontario and its alcohol program today. The greenbelt legislation alone: If this government is serious about supporting small wineries, I think this is a great venue for that.

What I want to see is rural pressure. Who has ever heard of rural pressure? We want to be impinging on towns, not the towns impinging on the green space. If we can get growers who own land that is viable and who can maintain a living on that property, they're not going to sell to anybody; they're going to go the other way. I think this works very well with current greenbelt legislation, if we can support small wineries with this VQA program.

The VQA stores: I know that you guys struggle with NAFTA issues while the rest of us put out our wishes. There are trade issues, I suppose; I don't understand why or how there would be trade issues in a bill that's trying to sponsor or support a wine industry in this province. I see the VQA program as more of an incubator program, focused and directed toward wineries that are not in our current government program. We're too small. We're too small for LCBO sales. We do not sell our wine through the liquor board. We can't afford their 66% cut. We then would have to get huge. If you sell a million bottles through the liquor board and make a penny a bottle, that ain't bad money. We don't have a million bottles in sales; we're tiny. We want our sales through our store, which is located on our farm.

As I'm sure you're all painfully aware, all new winery licences since 1993 are only allowed one retail outlet. Meanwhile, we have the huge importers who have 300 off-site retail stores, in every grocery store we go to, that are bringing in blended product, selling it on their shelves and getting the VQA markup advantage. For trade issues, I think the world must be laughing at us for selling Chilean wine in our system. I don't mind selling Chilean wine if it says "Chile" on the bottle. I would promote that; I would stand by their being allowed to sell in this country. What we don't want is Chilean wine in the Ontario section. We've got to do something about that. Again, I see this VQA opportunity as getting in there and supporting that.

Another reason for the good timing of this bill is that I think there is some groundswell out there among the public with regard to a backlash on Ontario wines. I think the public perceives that either Ontario wine is not made from Ontario product or they're being duped at their retail outlets by buying what they assume is an Ontario product. They're buying a non-VQA product in an Ontario or Canadian section and making some crazy assumption that it might be Canadian or Ontarian. As it turns out, there is a chance that only 1% of the product in the bottle would have any Ontario content. Again, I think this is a chance for the government to say, "No. Here's how we're going to address this. We're going to start this program, this store system, this incubator thing, where we're only going to allow in these retail outlets wineries that are not in the LCBOs." In other words, it's really just an in-house, in-province promotion program.

We're trying to support, to get a groundswell of small wineries, to get them going, get them on their feet, and eventually they can play and compete in the big world, in the LCBO stores. I don't think that's unusual. There isn't a wine region on this planet that does not subsidize its wine industry in-house. We've got Italian wines at the LCBO stores now for $5.70 a bottle, and that's because there is a minimum Ontario floor price on it; otherwise, it would be lower. You cannot tell me that that product is coming in unsubsidized from Italy.

I've spoken to a number of German growers and whatnot, who say how busy the month of March is for them in Germany because that's when they send in all their paperwork to get their refunds on their spray schedule, on their pressing, on their tractor tires, tractor oil and diesel fuel. It's a hugely subsidized system. So to suggest that it is NAFTA backlash—I don't know; something doesn't give, although I appreciate that it isn't that simple. But this can be done. I think we're getting hung up on the term "NAFTA." We need to work on it.

In Australia, for example, they have no tax for wineries with $1 million or less in gross sales. There's no tax on them. That's what they did 25 years ago so all these tiny little wineries were just allowed to grow—$1 million in gross sales. We are about halfway there. It might be a big number; $1 million sounds like a big number, but that still keeps a lid on it. So all those small wineries are allowed to grow and develop and learn their technique.

It would also allow us to get an Ontario—what is Ontario wine? We get pretty frustrated when we hear, "We're looking for a style, essentially a French style." We make our wines, Gewürztraminers, for example—"Oh, is this a French style of Gewürztraminer; is this an Alsatian?" "No, it's an Ontario style." That's what would happen if we could allow some of these small wineries, the innovators, the people who are crazy enough, like Peter Kocsis, to put chocolate in ice wine. Let them do that. Get off their backs and let them grow to a certain limit. The loss in tax refund would be squat. It would support the greenbelt. Ontarians would have places to drive to and support these little, wee units all over the joint. This is what the rest of the world does, at least. Australia has been doing this; New Zealand does this to some degree.

As far as the location of these particular stores, I see them away from the borders. I don't see them in Niagara at all. We want people to come to the wineries, not the stores, obviously. I see them in large urban centres: Ottawa, Kingston, London, Kitchener and Toronto. Ottawa is a fabulous supporter, for some reason, of Niagara. We did a survey and asked everybody who walked into our tasting room where they were from, and one in four was from Ottawa. They're not from Grimsby; they're not from St. Catharines. Three of the four were

probably from Toronto, but one in four was from Ottawa. Ottawa is a great supporter of Ontario. They drive down here, they spend the weekend and go back. They always ask me, "Can we get your wine in the LCBO?" I say, "Well, no, you can't." I'm always frustrated by that question, somehow. I'm sure you all attend Ontario's farmers' markets, and when you buy the jelly or jam from that one particular woman there, you don't say to her, "When can I get this jam in Zehrs?" You'd never say that. You know that jam will change from the time it gets from that woman's counter to the Zehrs store—sorry to pick on Zehrs—or any retail outlet. You wouldn't say that, and we need to get that philosophy across to people that they're coming down; they're buying off the land: "Those are the grapes right over there. The wine that's in this bottle comes from those vines right there. Those Rieslings, those Gamays, those Gewürztraminers are in this bottle."

1230

I've just been thinking about something you brought up about the trade issues, and it is a concern. We're tiny. This ain't softwood lumber; this ain't hogs. For example, we have on the ground 500 acres of Gamay Noir, which is a particular kind of red grape. Ontario grows 500 acres. France has 78,000 acres of Gamay on the ground; we have 500. I don't see where the Americans or whomever you're worried about with the NAFTA issue—I don't think they're going to bat an eye at it. We're below the radar. I think if we can keep our stores restricted to small producers, it will also keep us under the radar on this.

Tax structure would be my only other issue on the new stores. It cannot be the same as the current LCBO markups. Our little winery already has access. We could sell through Vintages; we could sell through the LCBO main store. We can't do it. It isn't worth it. It's not our goal to be that big. We would not sell through a VQA store program if the tax structure is no different than a sale through Vintages—I'm sure you're aware of what Vintages are—through a Vintages sale program or through our LCBO program. We wouldn't play the game.

I see these stores carrying 15 or 20 small wineries. We would pay our standard markup that we would expect to pay through our own little tasting rooms. I would expect it to be the same and that we would be expected to cover possible operating expenses, split between the wineries that are playing the game.

I think that's my rant there.

The Vice-Chair: Thank you. Members, we only have one minute left, so we'll start with the government. Mr. Craitor.

Mr. Craitor: Thanks for your comments. Let me just quickly share something with you, because I have the same frustrations. Shortly after I was elected, I certainly learned the difficulty that grape growers have had for years and years. I'm going to just share something with you very quickly. I suggested, because I'm pushing every avenue I can think of for VQA—one of the things I put forward was, how about just VQA being sold in grocery stores? What the heck; give it a shot.

I'm going to share with you the pushback I got, and it was in the newspaper. It came from the wine council. I'm going to read to you what they said about my idea: "The idea of converting the Ontario wine boutiques," all those licences that they control, we hear, 300 of them, "which are separate stores within some grocery stores, to VQA boutiques would fly in the face of long-standing international trade agreements, and consumers of premium VQA wines do not frequent these stores."

So even when I suggested it as a possible way of helping small wineries, a possible way of helping the grape growers, even the wine council came back and said, "The trade agreements. You can't do it." That was the suggestion. So that's the kind of pushback we get.

Anyway, I'm simply saying to you that there are other things that are available. You people all know it: the LCBO shelf space, clearly identifying the product, making sure that 100% in the bottle is VQA, the "cellared" that we all hear about. You all know it. Those things are there right now, and we've got to start addressing those so that your product is clearly sold.

I think the best thing that's coming out of all of this—and I must say this, Tim—is that we're getting coverage and people are starting to understand VQA, not only what it is but what it means to the economy of Ontario, the grape growers and even the wineries, how important VQA is. So there is a positive thing that's coming out of this whole process, as I'm hearing now with some of the articles that have been in the newspaper in the last couple of months. Some of the winery owners and grape growers have been interviewed and have really started educating the public. So some really positive things are coming out, about this and buying VQA products.

The Vice-Chair: Thank you.

Mr. Craitor: Am I OK here, Tony?

The Vice-Chair: You've spent almost a full minute. Mr. Hudak.

Mr. Hudak: He's a very tough Chair.

Thank you, David and Louise, for the presentation. You mention the timing and dovetailing and that sort of thing. There have actually been some risky developments or dangerous developments that have happened since this was introduced as a private member's bill: the most recent damaging short crop, for example; the greenbelt initiative, which will put pressure on the farm system; through the budget, enhanced pressure on the LCBO to maximize revenues, which has caused further delistings. We've had a tax increase on wine, whether domestic or imported. The wine council raised the spectre of gluts coming from the foreign markets, which will be backed up, I have no doubt, by lots of dollars from those governments to try to wedge their way into the Ontario market.

I think this means that now, more than ever, opportunities for small growers and small producers like Featherstone need to be brought forward. I think the risk of not doing so is greater today than it was in 2003. The importers are in such a dominant position that it would be regrettable that they would begrudge a small producer like Featherstone of 2,000 or 3,000 cases; it would be

shameful if they begrudged you a chance to get better market access.

The Chair: Mr. Kormos.

Mr. Kormos: Thank you very much for your contribution to this hearing. I for one think there's more than enough room in the revenues of the LCBO, and it's justifiable and well within the perhaps contemporary mandate of the LCBO, to dedicate some of those revenues specifically to nurturing and cultivating in any number of ways these small, highly specialized—what do you call this? There's a new class of producer here; he's the grower/winemaker, right?

Mr. Johnson: Right.

Mr. Kormos: It's a far different world from when I was young—only Mr. Craitor and Mr. McMeekin can remember that—when there were one or two big wineries producing stuff only drunk people would drink and all the grape growers were selling to that winery. It's a totally different world.

The Legislature has the capacity to adopt as policy—the government has the capacity to simply tell the LCBO, "You will accommodate this small, emerging industry with some of these incredible revenues," which I attribute, of course, to the skilled Ontario liquor board employees' union members and their hard work. It's there, and why we're not doing it just boggles the mind.

Your comments were just bang on; very valuable. A good part of the record.

The Vice-Chair: Thank you very much, Mr. Johnson.

CITY OF WELLAND

The Vice-Chair: Our last deputant for this session is the city of Welland. Welcome. Please identify yourself.

Mr. Paul Grenier: Thank you, Mr. Chair. My name is Paul Grenier. I'm a city councillor in the nearby city of Welland. Thank you to all the members for inviting us to be here. I am bringing greetings on behalf of His Worship Mayor Damian Goulbourne and my colleagues on council to reinforce the resolution of council that we passed. It says, "Welland city council endorses the resolution from the town of Grimsby to support the establishment of VQA stores to showcase VQA wines and endorse private member's Bill 7, the VQA Wine Stores Act."

I drew this assignment from my colleagues on council as not only am I a city councillor nearby, but I spent five years as the marketing director for the Ontario Wine Society. I come as sort of a little higher-informed consumer and a big fan of the Ontario industry.

I just wanted to read a couple of excerpts from the resolutions that other councils passed as a result of the request from Mr. Hudak:

From the town of Lincoln, the third part of theirs: "Enhanced training for LCBO staff regarding the strengths and merits of all Ontario wines."

From the town of Thorold, their last point: "Enhanced promotion and advertising of Ontario wines through LCBOs and various print media."

The underlying principle of all of this is support and assistance to the Ontario wine industry, particularly with VQA product, to have better access to markets for the producers of these products.

Everybody realizes the benefit of agri-tourism and agribusiness within Niagara created and driven by the wine industry. We are all proud of Ontario wine and the industry's success, from the foundation of its quality and its uniqueness to the co-operation between government and the producers to create an internationally renowned appellation, the VQA.

If I can bring some historical context to where I come to this debate—and Mr. Kormos will likely back it up, as he is actually a constituent of mine—15 years ago, during the free trade debate, being a little policy wonk, I was invited to a free trade debate at Niagara College. The president of Brights Wines was there, speaking about how difficult it was going to be for the wine industry to survive underneath what was coming with respect to the free trade agreement.

1240

He mentioned, actually, this as a sort of anecdotal story that goes around, and Mr. Featherstone used the same one: Ernest and Julio Gallo spill more wine than the Ontario industry bottles. They felt that essentially they were traded off and thrown to the wolves. One of the only positive elements that came out of that was the retention of the branded stores, and Mr. Johnson spoke briefly about those branded stores. I think that a lot of this debate, and the difficulties of marketing Ontario wine within our own market, had its beginning with those decisions and how that has evolved since.

In the intervening years, the number of wineries has grown exponentially. When I was the marketing director, there were 34 wineries. Now we're close to 70. It has doubled in the seven years since I've left being a sort of promoter and an advocate for the industry. More importantly, though, the number of owners of these branded stores has dwindled down to two, and this is where we have a problem. The good intentions, modest as they were, have now limited access to only these two distributors of Ontario wines. It's this issue that needs to be addressed. This is the plan to market Ontario wineries more widely and profitably, particularly within our own market here in Ontario.

Another issue that I have, and I appreciate the merits of the bill—people have been talking about this trade issue. I don't think it's necessary, or I don't know if we should be going down the road of reviving this trade issue with the WTO, giving the advantage to local producers because of the state-owned liquor monopoly in Ontario providing an advantage to local producers and so on. I don't think that we need to enter into that type of losing battle with our trade partners to prove a point. I think there are probably better solutions that could be effected more readily and without the pain of having to fight through the trade tribunals.

I also want to raise the other issue—and Mr. Johnson touched on it briefly, and so did some of the other pres-

enters, but I'm going to be a little more emphatic about it. It's the advantage that the boutique wineries currently enjoy with their increased margin of sale at the farm gate. Wineries are allowed to essentially keep the profit on each bottle sold, rather than having to share it with the LCBO, as they do when they sell through that channel.

I think that any type of solution proposed with this type of distribution network of VQA-only stores has to keep as closely to that advantage as possible. We can't have that type of distribution network if that margin is eaten up in distribution costs, storage and the management of that. We have to find a way that these small producers keep that margin so that advantage can be maintained and market access can be increased.

I would be in favour of any bill that increases access to the market and emphasizes, obviously, the quality and uniqueness of Ontario wines, and that further provisions of the bill, again, must protect the profit on sales at the farm gate. It's just that this network is constructed in such a fashion that we don't have to revive this battle with the WTO.

I've been involved in the industry. In fact, I was married at one of the wineries here in Niagara. It's important that we find a way to get these products in front of more consumers in a way that we're not, again, reviving the trade irritants through the WTO. The grandfathering of these branded stores through the free trade agreement with the United States needs to be revisited. I don't think that is a difficult issue for us to manage, and I was actually a little bit offended with the pushback of the wine council, if it's what Mr. Craitor said it was, that they would not understand how their partners need this type of access to the marketplace, particularly in Ontario.

The last caveat I'd like to raise is, again with the farm gates, if we do come, and hopefully do come, to this type of distribution arrangement, that we be careful with how we position them here in Niagara. The last thing we would want to have is to experience cannibalization of sales by having one of these VQA stores in downtown Niagara-on-the-Lake. That would preclude the need to actually visit the farm gate and share the revenue with the producers.

That concludes my comments, Mr. Chair. I'd be glad to take questions.

The Vice-Chair: Thank you, Councillor Grenier. The official opposition.

Mr. Hudak: Thanks, Councillor, for the presentation. It's good seeing you here. We certainly appreciate the city of Welland's resolution endorsing the VQA stores.

I'm just trying to follow some of the thoughts. Do you suggest that we should just reconfigure the LCBO from top to bottom? Do you agree there should be a parallel system of VQA wine stores or a combination of both?

Mr. Grenier: I don't think we should be reorganizing the LCBO. I think, more importantly, we have to find a way to get the VQA product in front of more consumers, which is the underlying premise of your bill. I think the two main issues are the margin that the smaller producers would be able to keep and how we do that. My suggestion is that we revisit the issue of the branded stores, why we gave up that limited number, and they've all since been bought up by two producers. I don't think that was ever the intent of that concession as a trade agreement. There's nothing sinister about it; it's just the way that business has evolved. These people were good business people. They bought up the access to market legally and they're doing a good job, but unfortunately it's just for themselves. The rest of the industry does not have the built-in advantage that the two main producers have. If we could find a way to remedy that glitch in the distribution system and get VQA wines in front of more Ontario consumers, the advantage that you're looking for with this bill would be realized by the producers.

Mr. Hudak: You're basically saying to take back a number of licences from large wineries and allow them to effectively become VQA stores.

Mr. Grenier: "Take back" are strong words, but find a way to use that avenue of distribution.

Mr. Hudak: Any idea how many licences that would be?

Mr. Grenier: No idea.

The Vice-Chair: Thank you. Mr. Kormos.

Mr. Kormos: Thank you very much, Councillor Grenier. I'm happy that Welland took this position with respect to this issue, because it underscores the fact that this isn't just a rural Niagara matter. It matters as much to urban Welland, urban Port Colborne, urban Fort Erie, as it does to the actual grape-growing areas in the northern half of the peninsula.

Welland has a significant role in the history of wine-making in Niagara and Ontario: the Welland Winery in the Cooper building on King Street in Welland, and of course the Roberto family. Tommy and Wally will tell anybody who will listen that their father, back in the 1930s and 1940s, produced thousands of gallons of wine a year, all of which was sold through his restaurant, Roberto's, on King Street.

Mr. Grenier: None of it subject to tax.

Mr. Kormos: None of it subject to tax, and there was nobody else with their hand in the pot, and the family did well as a result of it. Down where I grew up, in the south end of Welland, it wasn't just wine; it was the spirits industry. There wasn't a block that didn't have a still working in the backyard, and that wasn't that long ago. People sent their kids to universities with the revenue from that entrepreneurialism. Again, what we've got to do is make sure that people in Toronto, with all due respect, people in Windsor, in London, in Ottawa understand how very important this is as a part of the Ontario agricultural landscape, and a scarce and valuable part of the Ontario agricultural landscape. Thank you kindly.

Mr. Grenier: Thank you. I have to remind you that I grew up on Sixth Street, so I know all these folklore stories.

You bring that up across Ontario, and when I was involved with the Ontario Wine Society I did a lot of their shows with them and poured wine in Windsor and Ottawa at the gourmet wine and food, and at the Toronto

wine festival. In this type of education, the products are well received.But we need an opportunity—for most of the stuff I had in my hands, putting the glasses was not available through the normal distribution channels. Again, the spirit of the bill is to improve that and have everybody able to do that. I've missed Cuvée for the past four or five years, but one of the things that drove people nuts was that all the wines that won were only available at the farm gate. There was no other way to acquire these wines, even if you wanted to cellar them or keep them and enjoy them. The idea of the government finding a way to improve the distribution network, either through the LCBO or parallel to it, is something that should be undertaken.

The Vice-Chair: Ms. Mossop.

Ms. Mossop: Thank you very much for your presentation, and for bringing this history that you do with it. I don't know how long you've been in the room, but we've been dancing around this issue, and the wine council was here earlier, where we were talking about those licences and how to share them. In fact, the beverage alcohol review commission has made a recommendation that those licences be shared somehow. I don't know that you can pick a number of licences or put—I think it's something that would have to be reviewed, because obviously we've experienced the ground shift dramatically. There are a lot more players now; it's a whole different industry. So it would probably be something that would have to be reviewed, or maybe they would have a time when they'd come up for auction again. But those licences do exist. There are close to 300 of them in the province. I think it behooves us to continue to work with the industry, which our government is doing now. They've come up with a memorandum of understanding on a number of issues. It's a good, solid starting foundation for going forward to address that issue of sharing those licences in a more realistic way, and a more advantageous way for all the wineries in the business.

Vintages is another spot that I think, as you've mentioned, is direct—the LCBO or however you want to do it—to see the promotion of Ontario wine. VQA wine in Vintages is a natural market. But in your sense of your experience, do you think we can get that political will going in the industry? Do you see it starting to move now with some good quarterbacking, that that sharing can happen?

Mr. Grenier: Well, I hope so. There are many more members, again, that submit to VQA and are members of the Wine Council of Ontario looking at this, in the high 60s now. Everybody has a vested interest in the appellation being well received not only in our local market but internationally, but we can't succeed in getting that done until the market is there. We are still struggling with the acceptance of Ontario wines.

One of the other things that's sort of outside the spirit of the bill is the difficulty that restaurants have in listing Ontario wines and acquiring them for their wine lists. You can go to restaurants here in Niagara, in the middle of wine country, that still have difficulty in putting together a substantial wine list from some of these boutique wineries that are up-and-coming. Again, Mr. Johnson was far too modest: He's the only organic winery in Ontario, and I'm a big fan. It's a very convenient place to stop and buy as you're driving out of town. We'd like to see these types of listings in the higher-end restaurants across Ontario. It's still difficult for these wineries to get in to that distribution because there are impediments to selling direct. But to your original question, "Is there the will?" I think the debate around this bill might act as a catalyst to bring the industry together and try to work more co-operatively to get the product to market.

Ms. Mossop: Clearly, we talk about agri-tourism improving Ontario, but what we're really talking about here is our culture. This is our culture; this is what makes us what we are. You go to France to enjoy the art, to enjoy the landscape, to enjoy the food and to enjoy the wine. It is our culture. It's why people go where they go, why they live where they live. We keep coming back to this, and sparks fly here and there, but the bottom line is that this bill has provided a tremendous opportunity for this discussion to take place and to bring in these larger and wider issues as well. For that, I'm very grateful. But we really want to make sure that we have the solution. I appreciate your realistic viewpoint with regard to the trade issue, which is a bit of a bugbear that we're trying to deal with, and with your other ideas that you've brought forward which are realistic and doable. So thank you.

The Vice-Chair: Ladies and gentlemen, the committee is now recessed until 3:15 p.m. in Toronto at Queen's Park, where we will continue our public hearings on Bill 7 in committee room 1.

The committee recessed from 1253 to 1517 and resumed in committee room 1.

NIAGARA ESCARPMENT COMMISSION

The Vice-Chair: Ladies and gentlemen, we now continue with the public hearings for Bill 7, An Act to authorize a group of manufacturers of Ontario wines to sell Vintners Quality Alliance wines.

There are a number of deputants. Each group will have up to 15 minutes for a presentation and questions by members. I call upon the Niagara Escarpment Commission. Welcome. Please identify yourself.

Mr. Don Scott: Good afternoon, Mr. Chair, members of the committee. Thank you for providing the Niagara Escarpment Commission with the opportunity to address this committee on the merits of this bill.

My name is Don Scott. I'm the chairman of the commission. Today I have with me the commission's senior strategic adviser, Marion Plaunt, and our communications manager, Richard Murzin, should you have any technical questions later on.

At the outset, I want you to know that the Niagara Escarpment Commission supports Bill 7. The commission considers that Ontario wineries, in particular

small and medium-sized wineries, would benefit tremendously from a more flexible venue through which to promote and retail their products. The establishment of Ontario VQA wine stores would provide a much-needed venue and give support to the Ontario wine industry. The Ontario cabinet would reserve the right to determine the number, location and ownership of such stores, thereby retaining the government's traditional measured approach toward distribution of these products.

Being an environmental land use regulatory agency, the commission brings a land use perspective to this issue. As you know, the matter before you affects primarily small and medium-sized wineries that do not meet the LCBO volume requirements for retailing their wine. The fundamental issue is whether small and medium-sized wineries should be compelled to rely only on a single retail sales outlet and other ancillary uses at their farm gate in order to attract, promote and sell their wine. You have to ask, what other agricultural product is treated in this way? I can't really think of any.

This takes me to the crux of the land use planning issue. First, a bit of background. Within the area of the Niagara Escarpment plan, there are currently 21 wineries, four approved wineries that have yet to be built and five proposed wineries. To put this in context, there are approximately 120 wineries in Ontario. Over the past five years, there have been 14 applications for new wineries within the Niagara Escarpment plan area. There is every indication that this trend will continue. It is a made-in-Ontario success story, and it has put our province on the map and front-of-mind nationally and internationally.

Many of the wineries we deal with are small and medium-sized operations. They contribute to our collective reputation as producers of fine wine. They produce this wine in quantities that may not meet the LCBO volume requirements. Consequently, they are constrained to marketing their products at the farm gate and through sales to restaurants. As a result, the operators of these wineries often seek to attract customers by establishing a wider range of land uses, such as restaurants, special events, theatre and so on. Many of the small and medium-sized wineries have advised the commission that they do not necessarily want to establish other uses not directly related to the production of wine; however, they consider that this is what they must do to attract customers to their premises to sell their wine. We know of no other agricultural use where such an onus is put on an agricultural operator to be the grower, the manufacturer, the restaurateur or the tourist destination to sell an agricultural product. More to the point from the commission's land use perspective, we have found that these ancillary uses—in particular, restaurants and event venues—can result in a number of land use issues. Let me focus in on a few of those for you.

Firstly, a number of restaurants in the Niagara Escarpment plan area have created surface and groundwater contamination from on-site sewage systems. Although these restaurants were originally established under tied house licences, their subsequent success resulted in expanded businesses that exceeded the capacity of their private sewage systems.

Secondly, there is ongoing and increasing pressure for extending municipal services to restaurants. And when these services are extended into the countryside, this is often viewed as an opportunity for other non-agricultural development.

Thirdly, the development of entertainment-based operations in the countryside takes valuable agricultural land out of production to accommodate parking lots, septic fields and event venues. It can be argued that using valuable agricultural land for such purposes could eventually threaten the long-term viability of the Ontario wine industry.

Fourthly, many of the rural roads leading to wineries are not designed to take heavy tourist traffic or buses. Furthermore, in our experience, entertainment-based operations are often a source of tension in rural communities. There are frequent complaints from neighbours about noise, trespass and Traffic Act violations.

Through the last review of the Niagara Escarpment plan, the commission took the position that restaurants may only be permitted where a winery was situated on a minimum of 50 acres, in order to address most of the planning issues I have previously identified. However, given the current marketing constraints for wineries on small properties, the Ontario government approved policies permitting small-scale restaurants up to 50 seats on properties as small as 10 acres. The effect of implementing this policy has yet to be tested, but in theory, every winery could have a restaurant.

I think we could learn from the Napa Valley experience. Very seldom can we learn from the experience south of the border, but I think we can in this case. In 1999, staff from the commission and from the Ministry of Agriculture and Food conducted research in Napa Valley. In Napa, there were 240 wineries in an area comparable in size to the lands below the escarpment in the Niagara Peninsula, yet within Napa Valley there were only two restaurants located at wineries. The rest were located in fully serviced urban areas. The vast majority of the Napa wineries do not rely on farm-gate sales. In fact, many require appointments for tasting at the winery. In addition, their wineries rely upon a flexible retail and wholesale market to distribute their wine. Similar flexibility should be afforded to wineries to retail Ontario's wine if we want to protect the agricultural land base and rural lifestyle over the long term. The establishment of VQA winery stores at strategic locations, both within and outside Ontario's wine regions, would promote Ontario's wine as well as protect the countryside.

The question should be asked: What is the vision for Ontario wines? It's unclear to me why the retail sale of wine is limited to the LCBO and the limited retail outlets owned predominantly by two large wineries: Vincor and Andrés. Doing so invites the proliferation of eating establishments and event venues on good grape lands to facilitate farm-gate sales. Potentially, this could translate into approximately 30 wineries selling meals within the

Niagara Escarpment plan area alone, between Stoney Creek and Niagara Falls. No other agricultural producer is compelled to establish a restaurant or other amusement in order to market its products.

The commission's vision for Ontario wines would include tasteful VQA stores that retail Ontario wines in designated commercial areas. These stores would be accessible to smaller wineries and would broaden their reach into a wider market. More importantly, the commission's vision includes the protection of the agricultural land base, the beauty of the countryside and respect for rural values, lifestyle and livelihood.

From a conservation standpoint, I consider that the bill before you is a step in the right direction. We have seen what has been happening with the price of gas lately, and we are told that it could be getting worse. This bill helps to mitigate the impact of higher fuel prices by giving the industry a marketing alternative. It helps the wine industry adapt to the potential effect of high gas prices by reducing its dependence on tourists as a primary outlet for their wine.

In conclusion, it is the right time to consider more flexible opportunities for the retailing of VQA wines. The commission wholly supports Bill 7 as a means of protecting valuable grape lands, reducing land use conflicts in the Niagara Escarpment plan, and indeed the rest of the wine-producing portions of the province, and promoting the Ontario wine industry.

Thank you. I would be pleased to answer any questions you may have.

The Vice-Chair: Thank you, Mr. Scott. I'm going to continue with the rotation we started this morning, so it would be the third party.

Mr. Kormos: Thank you very much for your participation in the hearings. It's hard to quarrel with any of your observations.

One of the problems we have down there, of course, is that these happen one at a time. There's always an incredibly persuasive argument being made for site A, which wants to do X, Y and Z and talks about the employment that it creates, the additional traffic and the visitors to the community. The problem is that then you have location B, C, and D. So what do you say? We've got a status quo now. We know where they are, but you've got some fairly significant restaurant operations. I think some of them are fairly large in terms of handling banquets. What then do you say to the new kid on the block who says, "Hey, but I've got to compete with these people"? I think it's a dilemma. We met some of them this morning. These are entrepreneurs who invest a whole lot of money.

1530

Mr. Scott: That's true. Maybe it's a selfish point from the commission's perspective, but we look at this bill as a very good opportunity to give the small wineries in particular an opportunity to establish some kind of little co-operative in Niagara-on-the-Lake, Beamsville or someplace where they can retail their product. A lot of them don't really want to run a tied house or a restaurant in order to produce that. You wouldn't expect a beef farmer to establish an abattoir and then a burger place on his farm to sell his product, so why should this happen in the wine industry?

Maybe the price of gas might help things by reducing the amount of tourist traffic through it, but it's going to really hurt the small industry. I think this is one of the first viable options we've looked at to really create a good marketing tool, as well as meet some of the land use goals that we're dealing with.

Mr. Kormos: You've been suggesting that this could be done by way of co-ops. You wouldn't quarrel with the LCBO doing it? You see, that's where I'm coming from. This is a sound proposal, assuming it's the LCBO that's going to deliver the services.

Mr. Scott: If they want to broaden their mandate to do that, if they could provide that, that would be fine, but right now it's a hard time finding Featherstone wines in the LCBO.

Mr. Kormos: Which is why we need the LCBO to start marketing this stuff, perhaps in a boutique style.

Mr. Scott: That would be a great idea.

Mr. Kormos: I appreciate your comments very much.

The Vice-Chair: Mrs. Van Bommel.

Mrs. Van Bommel: What I take from your presentation is that you feel in many ways that the infrastructure as it exists now is not going to be adequate to support any further restaurants and winery-type endeavours on-farm.

Mr. Scott: It's a complex issue. One of the things you've got to remember is that we're dealing with a very limited land base that can produce wine. Should you be eliminating some of that through parking lots, tile beds and things of that nature?

The easiest example is to look at Cave Spring, which is a winery located in Jordan. They've taken an old canning factory and turned it into a winery, a great restaurant. They have their wine boutique there and their accommodation. The big bonus in that is that they have helped create a tourist draw for Jordan. There are so many benefits of putting these in the right places from a land use perspective. Just to service some of these restaurants, we've had some bad experiences so far. If you're required to put a sewer line out to pick up some of these restaurants, then they say, "Well, it's there; we might as well tie into it," and it just keeps on going. If I read the Greenbelt Act correctly, we're trying to avoid some of that urbanization of the landscape.

Mr. Hudak: Chairman Scott and friends of the Niagara Escarpment Commission, thank you very much for being here and making an excellent presentation. I know COPE has also sent in a similar support letter, I believe—hopefully, the clerk has sent that around from COPE—advocating basically the same thing as the escarpment commission is today. Certainly COPE are very strong advocates of preserving the Niagara Escarpment.

Earlier today, we heard a very strong business case for VQA stores from the small wineries themselves. We heard a very strong agricultural case from grape growers

and other farmers. We heard very strong equity arguments in terms of equal treatment in market access from the majority of presenters, and now we're hearing a very strong environmental case from the Niagara Escarpment Commission, which I greatly appreciate.

I also think you make a very good analogy to the cattle farmer, that we don't have government policies that perversely say, "The only place you can sell your meat is out of a steak joint on the farm property." Do you hear that from some of the wineries? Do they say that if they don't have an opportunity for greater market access, they are going to try to turn to ancillary businesses on their property, and what will the impact be on the escarpment?

Mr. Scott: I think one at a time—that's how you eat an elephant: one bite at a time—you eventually eliminate the resource.

I recall standing in maybe an 85-acre vineyard with the former chair of the region, and they were announcing this great new winery that was going to be put up. I had to, in a friendly manner, remind the regional chair of Niagara that if it hadn't been for the mean old Niagara Escarpment Commission not allowing subdivisions and that, we would have been standing in the middle of an estate development and not a potential winery. So you have to really stop the first one. I think we've got a unique area here, and I think this is the right approach to certainly direct things in the right way from a land use perspective as well as, obviously, from a marketing perspective.

The Vice-Chair: Thank you very much, Mr. Scott.

SPIRITS CANADA

The Vice-Chair: The next group is Spirits Canada. Welcome.

Mr. Jan Westcott: Good afternoon, and thank you very much. We appreciate the opportunity to appear before the committee and to comment on Bill 7. I'm Jan Westcott, president and CEO of Spirits Canada. It's a national trade association representing the interests of the Ontario and Canadian distilled spirits industry. I'm joined by my colleague C.J. Helie, EVP of our organization.

The Ontario spirits industry is an important contributor to the Ontario economy, with a direct payroll in excess of $100 million every year, and generates direct tax revenues to the Ontario treasury in excess of $800 million. Spirits are the principal profit-driver within the LCBO, and our members purchase more than $230 million worth of goods and services every year from Ontario businesses—large businesses, small businesses, and medium-sized businesses. We are the only domestic beverage alcohol group without the privilege—and I stress "privilege"—of selling directly to Ontario consumers through our own retail chain of stores, other than through one store that's located at one of our manufacturing facilities.

In direct relation to the issue under discussion today, the spirits industry buys more corn from Ontario farmers than the farm value of the entire Ontario grape wine crop. So I just would ask that we bear those things in mind.

That's a short, top-line introduction to the spirits industry. A general fact sheet describing key aspects of the Ontario beverage alcohol industry is appended to these comments for your information.

Quite frankly, we're perplexed as to the true underlying purpose of Bill 7, as the bill includes no statement of objective, but we have three hypotheses that we would like to share with members here today.

First, it may be that the bill's intention is to improve beverage alcohol service to Ontario adult consumers. If this is its purpose, clearly it misses the mark by a very wide margin. Today in Ontario, there are nearly 600 LCBO stores and over 180 LCBO agency stores selling Ontario wine. In addition, the province has 290 private wine stores selling Ontario wine exclusively. Let's compare these wine outlets with the number of retail outlets selling Ontario spirits.

Since spirits retail sales are limited to LCBO and LCBO agency stores, there are nearly 40% more licensed outlets offering Ontario wine for sale in Ontario today than there are that offer Ontario spirits, yet despite an additional nearly 300 more outlets offering domestic wine, at nearly $1 billion in net sales, domestic spirits far outsell domestic wine sales of less than $400 million a year. In fact, spirits are available in only half of the authorized outlets, while beer and domestic wine are available in over 70% of the outlets.

These facts lead one to conclude that if the goal is to improve the service for Ontario adult beverage alcohol consumers, the compelling need is to increase retail access for Ontario spirits and not, with all due respect, Ontario wine. That said, it is not the position of the Ontario spirits industry to advocate for the establishment of private spirits stores in the province, dedicated exclusively to the sale of spirits. These kinds of discriminatory policies are anachronistic and counterproductive to the creation of a dynamic and competitive retail market.

1540

Fortunately, there is a solution readily at hand. The LCBO has over 40 years of experience in managing private retail stores to complement and augment its market coverage through its agency store program. If there are gaps in retail access in the province, these should be covered by an expansion in the number of LCBO agency stores that are authorized to sell the full range of beverage alcohol products wanted by consumers—beer, wine and spirits—not an arbitrary small subset such as only VQA wines.

We understand that historically the LCBO was not able to open agency stores everywhere warranted by consumer demand due to opposition from The Beer Store for purely competitive—some would say anticompetitive—reasons. Simply eliminating The Beer Store's virtual veto on the location of new LCBO agency stores would address any concerns related to retail access without the need for Bill 7.

Secondly, if not to address consumer service, perhaps the purpose of Bill 7 is to expand the level of taxpayer subsidy to Ontario vintners without the level of transparency and public scrutiny expected of public policy development today. As members may or may not be aware, the previously identified 290 private wine stores have become a virtually tax-free route to market for Ontario wineries.

A typical bottle of wine selling for $11 in Ontario would have $4.36 in provincial taxes and fees applied to it if it is sold by the LCBO, and only 49 cents if sold by one of these private wine stores. Even after accounting for the costs incurred by the LCBO in selling the bottle, the Ontario treasury would receive $2.84 for the same bottle sold by the LCBO versus less than 50 cents when sold by a private wine store. That's over 80% less on the same bottle of wine, simply depending on where it was sold. For those of you who may be shocked that Ontario imposes fees and taxes amounting to nearly 50% of the wine's net selling price, the comparable fiscal load on spirits products sold by the LCBO is substantially higher, at 60%.

The virtual tax-free status of these existing private wine stores is the equivalent of an Ontario taxpayer subsidy valued at more than $65 million in 2004 alone. Given the fiscal priorities facing the province, it seems incongruous that the committee would consider or recommend increasing the level of corporate subsidies to large, successful companies that are out there in the wine business, companies such as Vincor International. To put the magnitude of the wine subsidy into context, over 1,000 registered nurses could be hired for the same level of investment in the province.

It's also worth noting that the level of subsidy has skyrocketed over the last few years due to recent policy decisions such as allowing private wine stores to deliver directly to most licensed bars and restaurants and by increasing the tax load on sales through the LCBO while freezing the almost non-existent tax on private wine store sales. In fact, VQA Ontario reports that nearly 20% of VQA wine sales in the province are now shipped directly to the on-premise trade, with the associated reduction in control and audit functions inherent in third party transactions like sales though the LCBO. We do note that the bill makes no mention of the proposed tax load that would be imposed on these new outlets, but the cost of the above precedent should be sobering for all policy-makers.

Finally, perhaps the real goal of Bill 7 is to launch a trade war with Ontario's major trading partners so that we can eliminate all of these private and discriminatory stores once and for all, as recommended recently by the Ontario Beverage Alcohol System Review Panel. Members should be aware that under the Canada-US free trade agreement, the number of wine stores in Ontario and BC that may discriminate in favour of their own locally produced wine is limited to the number of outlets in existence on October 4, 1987. I quote: A party may "maintain a measure requiring private wine store outlets in existence on October 4, 1987 in the provinces of Ontario and British Columbia to discriminate in favour of wine of those provinces to a degree no greater than the discrimination required by such existing measure."

This unambiguous but limited exemption to Ontario's national treatment obligations was later directly incorporated into NAFTA through NAFTA annex 312.2 and remains a binding commitment today. By limiting the proposed new additional VQA stores to selling only Canadian VQA wine, Bill 7 is in direct contravention of NAFTA. I don't believe anyone disputes this point.

Similarly, Canada and the European Community concluded a wine and spirits agreement in 2003 that updated a previous 1989 agreement. That puts Ontario's right to operate private wine stores that discriminate against EU wine back on the table if, in the words of the agreement, "the relative commercial significance of the restricted outlets," by which they mean the private wine stores, "should substantially increase."

It's our understanding that the EU will take the position that the establishment of a parallel VQA chain of stores in addition to the existing private wine stores would trigger this renegotiation clause.

I think it's fair to ask, and members may question, why the spirits industry is concerned with a potential trade war with the US and EU that is centred on wine. The answer lies in the structure of the market and in power politics.

In 2004, Ontario exported less than $8 million of wine to the United States and less than $2 million to the European Union. In the same period, Ontario—stress Ontario leading Canada—exported over $300 million of spirits to the United States and over $20 million of spirits to the European Union. That's a ratio of over 30 to 1 in favour of spirits over wine. Both the US and the EU understand that any trade retaliation focused on Ontario will not be centred on wine but rather on more substantive export products like Canadian whisky—whisky that's produced in Windsor, Collingwood, Amherstburg and, incidentally, in the peninsula, in Grimsby.

This fear of retribution is more than simple conjecture, as this dynamic is exactly what occurred in 1988 following Canada's loss at the GATT on liquor board wine practices. In our view, passing Bill 7 would be akin to playing Russian roulette, with the spirits industry as the game's stakes, and such a gambit is not acceptable to our companies, our employers or suppliers and, quite frankly, we think it's not worthy of Ontario's consideration.

The Vice-Chair: Thank you. The government: Ms. Mossop.

Ms. Mossop: Thank you very much for your presentation and for, quite frankly, a side to this discussion that we haven't seen yet, at least today in the public hearings. Your research and bringing this to bear is most useful to this discussion. You mentioned that there's one producer that has an outlet, a store. Which one is that?

Mr. Westcott: Hiram Walker has a store in Windsor that is a tourist centre, much like some of the wineries have.

Ms. Mossop: You may notice that you're speaking to a fairly Niagara-centric group here, and if you haven't, you are. We have the same concerns with regard to trade. We have some of the same concerns about helping the local domestic industry, because it is one that's gone from a very small industry to quite a large one now, and world-class. There are a number of other things that are in play or being discussed. Do you have any thoughts around, what if we were able to increase the number of VQA wines from the smaller craft wineries in Vintages? Right now, a lot of the small craft wineries can't get into the LCBO because they don't have the quota, and that's a real frustration for them. What if we were to try to come up with some sort of mechanism to increase their presence in Vintages?

Mr. Westcott: With all due respect, I think that Ontario has done remarkably well by the domestic industry. At the end of the day, we all live or die on market demand. The LCBO, for years and years and years, ever since my involvement in the business, has run a one-month promotion for Ontario wines, which is better and better and better every year, ramped up. Certainly successive governments have invested heavily in direct marketing support to the wine industry, something that's not really offered to anybody else in the beverage alcohol business. I think that's had some due. The question becomes, how much is enough, and when do you cross over the line and start conveying advantage to somebody—and I'll leave out marketplace advantage—in a way that begins to put other people at risk?

In a sense, we buy a tremendous amount of corn in Ontario. We buy corn from central Ontario, where we source all of our corn for our facility in Collingwood, and we buy corn in southwestern Ontario, 50 square miles, one plant alone. Should the interests of people who live in southwestern Ontario be traded off to the interests of people who live in the Niagara Peninsula? Certainly, there's got to be another way to come at this—

Ms. Mossop: No, and I'm not suggesting that—

Mr. Westcott: Inadvertently, that's what happens. I realize that's not where we intend to go, but that is in fact what happens.

Ms. Mossop: I'm coming up with another solution to this, which is just maybe increasing that shelf space in Vintages a little bit.

Mr. Westcott: I certainly have no objection to doing that, but clearly, the LCBO has worked very hard to do that. Again, it has to be driven by the market.

Ms. Mossop: One last quick question: The discussion that we've had today has centred around potentially those 290 VQA licences that are out there, and whether or not, with the industry working co-operatively—I'm not sure that that's a possibility or not, but hopefully—to share those licences in some way, either by auctioning some of them off or something that the beverage alcohol review commission looked at.

1550

Mr. Westcott: Well, I don't feel comfortable sticking my nose into the wine business and telling them how to run their affairs. We do respect private property. Those stores exist, and there's some history behind them. How the government gets equity there is a very difficult issue. I'm not sure that it's my place, on behalf of the spirits industry, to tell them or offer suggestions on how to do that. I appreciate the opportunity, but I think I'll keep out of that one.

The Vice-Chair: Thank you. Mr. Hudak.

Mr. Hudak: Thank you, Jan. It's good seeing you guys again. We used to get along so well back in the day.

You could have called, and I would have given a pretty direct answer as to the purpose of the bill. It's not some secret conspiracy. It's pretty basic, and that's to give market access to the small craft VQA producers who really are restricted by current government policies. I appreciate the debate on spirits versus wine versus beer, and we've had that discussion. I do appreciate your support when we did expand the LCBO agency store system, which I think has been responded to very positively by constituents, and I hope the current government continues with that method.

The goals are quite simple and straightforward: By improving that market access, the goal is to create an even more inviting international tourism destination for wine lovers, so you have that nice dynamic of the larger wineries and of vibrant small and medium-sized industry. It's a way to modernize our market to give consumers greater choice and exposure to these VQA wines.

Also, quite frankly, it supports other government initiatives like the greenbelt. We heard consistently, during the greenbelt hearings and even today, that if the government truly wanted to make the greenbelt successful, which is an initiative focused on certain parts of the province of Ontario, then we should have some sort of agricultural support plan. Coming from the agricultural sector, there is very strong support for initiatives like these to ensure that that will be the case and that the greenbelt could be successful if these ideas are embraced.

I appreciate that we're having a bit of debate at the committee as to what vehicle to utilize for the small VQA wineries. Ms. Mossop talks about Vintages and there's talk about existing licences, so I do appreciate that there's been some honest, open debate. Mr. Kormos has talked about doing it through the LCBO, and you gentlemen are I think strong advocates of increasing the agency stores program. I do appreciate the remarks. They are debates that we did have back in the day. But with all due respect, it's something that I care passionately about, and that's why I brought it forward, as minister and as a private member's bill, to help out those small craft producers get fair market access.

The Vice-Chair: Thank you. Mr. Kormos.

Mr. Kormos: Thank you very much. I was concerned for a while there. I thought Mr. Hudak's bill had such overwhelming, unanimous support, which in and of itself is probably a bad omen. So I think you've given the bill a boost now. You've created some tension. We've been talking about wine all day. You're the first people to come in here talking about rye whisky. You'll remember the line in the song, Mr. McMeekin: "I started out on

burgundy / But soon hit the harder stuff." Thank you very much for your submission.

CILENTO WINES

The Vice-Chair: The next deputant is Cilento Wines. Please come forward. Welcome.

Mr. Dave Gimbel: Thank you. Why, this is sort of exciting. This is great.

Mr. Hudak: It was going too smoothly earlier on.

Mr. Gimbel: That's right. Man, it's hard to believe being here. Last time I was in this building I was about seven years old, a school kid coming here on a bus tour. Sad to say, I live 60 miles away from the building and have not returned until today.

Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Aldershot): You've still got a twinkle in your eye.

Mr. Gimbel: I just joined a tour before I came down. I had a few minutes to kill, and it was really neat to see the building again.

Anyway, good afternoon, everyone. I appreciate the opportunity to speak on Bill 7 and the Ontario wine industry in general. My name is Dave Gimbel, and currently I am the sales manager for Cilento Wines. We are a medium-sized producer and winery located in Woodbridge, Ontario. Cilento has been a producer of Ontario VQA wines since 1995, sourcing our grapes from selected growers throughout the Niagara region.

At one time, Cilento was an owner and grape grower in the Niagara Peninsula. We had 150 acres of land full of grapes at Concession 7, Line 6, just outside of Niagara-on-the-Lake. However, being an off-site owner, we found it very difficult to maintain and manage the vineyard to the capacity that it should be. As a result, two years ago the vineyard was sold. Currently, we source our grapes from about 11 selected growers throughout the Niagara Peninsula.

At present, we have two products general-listed at the LCBO, two products in the craft winery program and our limited-release wines are featured in Vintages from time to time. Because of our size, the majority of our wines are sold through our one and only retail store located at the winery in Woodbridge, Ontario. Due to our location outside of wine country, we are not part of the culture and ambiance found there. We are not part of the many programs offered and we receive very little tourist traffic. For us, VQA wine stores would be ideal.

As for me, I became part of the industry in 1988, joining Hillebrand just before the introduction of the VQA program. For the past 18 years, it has been both a challenge and a privilege to sell, market and promote VQA wines in Ontario and around the world. I have seen the industry grow to its current status, a growth that has been truly amazing. Back then, we were a handful of wineries trying to establish ourselves as serious producers in a sea of nondescript sweet and bubbly products. With the help of growers, winemakers, industry visionaries and government, a new and exciting part of the Ontario wine industry was born: VQA wines.

Today, with 100 wineries dotting the landscape, many of the smaller ones are facing challenges on where to sell their product. For those using the LCBO as a means of additional distribution, shelf space is at a premium. Many Ontario producers find it somewhat difficult to work within a system that must service the needs of worldwide interests yet not show preferential treatment to domestic producers at the same time. Current rules and regulations do not allow alternative retail outlets for our VQA wines.

When I as a producer fail to get a listing or have a product delisted, I have no other means of distribution except my own retail store. This is true for the majority of Ontario wineries that do not have the luxury of owning their own stores. About 10% of the Ontario wineries own their own off-premises stores. There are more than 300 of these stores in the province, located in malls and grocery stores. These stores are winery-owned and exclusive to their brands. If one of their brands becomes delisted in the LCBO, they have an alternative means of retailing. I do not.

Cilento has received four LCBO delistings since I joined the company in 2001. It is difficult for a small winery with limited resources to support our brands within the system. Marketing promotions, in-store programs and Food and Drink advertising cost money. Profit margins are almost non-existent as it is, yet we try to do what we can.

Our most recent delist, which happened about three months ago, was our award-winning Chardonnay no oak. This wine was twice awarded the Andy Brandt LCBO trophy for best general list white wine at Cuvée. It is our top-selling brand, and we receive calls daily from customers upset that the wine is no longer available in the LCBO stores. Ontario VQA wine stores would be a perfect option for this product and us.

In 1988, a stroke of a pen grandfathered the ownership of the off-site retail stores. Now, 16 years later, Bill 7 may provide the remaining 90% of Ontario wineries with an off-site alternative.

I have asked government why the off-site retail option could not be reintroduced in Ontario. Of course, NAFTA is the answer I get. I have been told if Ontario were to grant new licences, Gallo, for example, could ask for the same privilege. Why is it then that in Pennsylvania, which incidentally has a liquor board similar to Ontario, all wineries are granted five off-site licences as part of their package?

1600

New York state has retail stores that sell 100% New York state wines. One of them is located in downtown Manhattan—a perfect tourist opportunity and there to attract the visitors to the Big Apple. There is one in the town of Cambria, New York, at Warm Lake vineyards, which is about 15 miles from the Lewiston-Queenston Bridge.

In Traverse City, Michigan, there is a store downtown selling "All Things Michigan." The store has a lovely display of Michigan wines for sale. Most of the local wineries are represented. There are approximately 40 to

45 wineries in Michigan. There are no imports and no other states' wines offered for sale.

The same situations are found if you travel through Napa and Sonoma. Retail and tasting rooms sell only California wine. In Richmond, Virginia, I visited a quaint retail store selling only Virginia wines.

Lastly, we see how the 20 private BC VQA wine stores have built customer loyalty and increased sales within the province. My daughter recently returned from BC and brought me a few bottles from a VQA wine store in Vancouver. She told me the selection was great and the staff was knowledgeable and friendly and did a super job.

Bill 7 would support the vintners who need a retail alternative, whose production does not satisfy an LCBO quota or whose location is not part of the wine route. Bill 7 would create an atmosphere where VQA wines would take centre stage, where all producers would be created equal and all wines would stand on their own merit. Or would they?

To achieve equality, it is my opinion, and my opinion only, that in order for Bill 7 to be successful and for all Ontario VQA producers, small and large, to benefit equally, the program, if instituted, should be set up at arm's length. Those associated with the industry should not be a regulator or retailer. Since all VQA manufacturers must be members of VQA Ontario, perhaps VQA Ontario should be the government agency responsible for the granting of retail licences.

While it is fine for special interest groups and industry associations to support all areas of our industry, it should be noted that the largest industry association represents only two thirds of the wineries. The same holds true with the LCBO. Not all wineries sell their wines in LCBO stores. This is why an arm's-length program is vital.

There are no reasons why all levels of retailing can't work together. In BC—and I have used that province as a model—there are five distinct retail operations selling VQA wines. And guess what? It's working. The BC liquor stores sell VQA wine; the 20 BC VQA stores sell VQA wine; the private wine stores sell VQA wine, as well as imports; the retail stores affiliated with a specific winery sell VQA wine and, last but not least, the BC duty-free stores sell VQA wine.

Using BC VQA as a model, I hope the bill would allow some flexibility at the store level. BC VQA wine stores are permitted to sell wine-related accessories and gift baskets. Accessory sales are very important for the success of a retailer and one would hope that, in addition to wine, other items would be available. I would hope that the VQA stores would have the flexibility to include in-store tastings and direct delivery to make them a full-service operation.

Once established, these stores could be an area of future expansion. They could include products from the fruit wineries of Ontario, which face a similar situation with limited distribution, and selected products from Ontario Craft Brewers possibly completing the full circle.

This is a golden opportunity to put Ontario on an equal footing with other wine-producing regions, especially BC and our neighbours to the south. Working with growers, producers and the Ontario government, these stores will give many smaller producers the ability to build their brands, increase production of VQA wines, add jobs to the economy and gain a little market share in a very competitive world.

In closing, I would like to thank Tim Hudak, MPP for Erie–Lincoln, for the time and energy he has spent on this bill. He is truly an ambassador of Ontario VQA wines. We have an opportunity to do something outside the box for a change, something that will grow our industry. Isn't that what it's all about?

The Vice-Chair: Thank you. Members, we have about three minutes left, so I'll start with the official opposition.

Mr. Hudak: Dave, thanks very much for a very well-thought-out and very well reasoned presentation. Welcome back to Queen's Park. Obviously you've done your homework on comparative jurisdictions. I think you quite effectively point out how other states and provinces have some form of access that we currently lack in Ontario for the craft wine producers. Often we'll hear the answer, "Well, the LCBO could do more," and I agree that the LCBO can and should do more. We appreciate Andy Brandt's work to date, and there's more that can be done. But I think the way the LCBO is currently constructed—in terms of the supply it demands, the warehousing requirements and the marginal benefits for some of the small producers that sell through the LCBO—just doesn't really make it an option. We enter into a perverse world, so to speak, where market access for the majority of our small producers doesn't exist outside of their own farm. Maybe you could extrapolate a bit on that. Would you be satisfied if the answer was, "We'll just do more through the LCBO"?

Mr. Gimbel: Well, currently, as I said, we have products in the LCBO. However, as a small producer, where do you find Cilento products? We're on the bottom shelf, behind the post, and that's where we are in most stores. Prime shelf space of course is dedicated to the larger wineries, the ones that have the capital and the money for the marketing programs. Marketing programs are very expensive, and most smaller wineries don't have additional capital to go this route. That's why some of them have even decided not to go into the LCBO to market their product. I've been told by some manufacturers of Ontario wines that they actually sell more wine in Alberta than they do in Ontario, because of a less restrictive marketplace.

The Vice-Chair: Mr. Kormos.

Mr. Kormos: I appreciate your references to some of the illustrations of Pennsylvania, New York state and the "All Things Michigan" store in Michigan. The next presentation is going to be an interesting one in the context of those observations, because it's a pretty scholarly legal opinion with respect to the free trade act.

One of the things I'm going to ask if I have time—you see, I'm sneaking this in because I hope the professor is here—is, is this the whole point? Of course, I'm an

advocate of not privatizing liquor sales or spirits and wine sales but of maintaining it in the publicly owned LCBO regime. My issue is this: I believe the LCBO has the capacity to expand its mandate, for instance, to promote agri-tourism, and in the course of doing that to present VQA wines in places that are logically frequented by large numbers of tourists. So I'm going to be asking the next presenter if those sorts of options that we have in Ontario, which some of the places don't have, in fact give us more flexibility with respect to complying with free trade than we would if we didn't have a publicly owned operation like the LCBO which at some point or another gets its direction from the Legislature of Ontario.

The Vice-Chair: Thank you. The government.

Mr. Craitor: Welcome back.

Mr. Gimbel: Thank you.

Mr. Craitor: I was here when I was a kid and the next time I showed up, I was an MPP, so there you go.

Just a couple of very quick comments. I said earlier this morning—it's ironic, because I had suggested, just trying to help the VQA industry, that we put wines in grocery stores, only VQA. The pushback I got from the wineries and the Wine Council of Ontario was, "You can't do it. It's a violation of the free trade agreement. You shouldn't even suggest something like that." That was their pushback. But I'm in agreement with my colleague Peter Kormos: I really believe that we have a distribution system here that's just not working with the LCBO. In the short time I've been elected—and I've listened to you and everyone else who has talked to me. We have a system that is not there for the small wineries. It's impossible to get into it. Then the small wineries in turn have their difficulties, so then the grape growers are affected by it. The blending is the craziest thing I've ever seen. The general public has no idea what blending even means. They think when it says "Ontario"—and we hear this all the time, "There you go, Ontario wine." You would think that was all ours.

Mr. Gimbel: There's probably not a drop of Ontario wine in this brochure, and if there is, it's probably 5% or 10%.

Mr. Craitor: So I think there's really an opportunity, and I know my colleague Jennifer Mossop feels the same way. We have a distribution system, and we've got to fix that first. That's what we should be going toward, and not in terms of getting into the free trade agreement and if there are or aren't violations. I don't know if you were here, but there was a gentleman who spoke for the spirits industry and he just went on about the ramifications there would be to his industry if we did this.

I'm just suggesting that you keep going forward, you keep pressing. It sounds like you've been at this for a while, and there's a group of us up here who feel the same way as you: Fix the system that we have.

1610

The Vice-Chair: Thank you.

Mr. Craitor: I know he wants to make a comment.

Mr. Gimbel: I appreciate your comments and I understand them fully. However, when I look south of the border, I wonder why they can do it and we can't. All of these jurisdictions have either some form of liquor distribution—Pennsylvania has a liquor board that's patterned almost identically on ours. They have wineries that have wine stores, but they also have wineries that have five off-site licences. Why in Ontario can't every producer have five off-site licences? That's my question. If Pennsylvania can do it, and they are in a NAFTA country, why can't we do it? Why do we not initiate a trade war against them because they're doing something that we supposedly can't do? It doesn't make sense to me.

BC has a liquor store system the same as Ontario, but in addition, they have the VQA stores. And in addition, they have private stores, where products are sold that maybe the liquor board doesn't want to carry. Let competition see what it can do in a free market economy.

The Vice-Chair: Mr. Gimbel, thank you very much. Your time is up.

BENNETT GASTLE PROFESSIONAL CORP.

The Vice-Chair: The next deputant is Bennett Gastle Professional Corp. Please come forward. Welcome.

Dr. Charles Gastle: Good afternoon. My background is international trade law, and I've taken a look at the proposal from that perspective. What I tried to do, when I went through the bill and also the law, was to find a way that I thought VQA wine stores could be completely onside with international trade law. There is one way in which I think these stores are not only permitted by international trade law but perhaps specifically contemplated by it, and it's this: My understanding is that Bill 7 is to permit VQA wine stores to form a partnership by which they could open up stores in Square One, the Eaton Centre or other places in Ontario—

The Vice-Chair: Please identify yourself for the record.

Dr. Gastle: My name is Chuck Gastle, and I have a doctorate in international trade and competition law. I'm an adjunct professor at Osgoode Hall Law School, teaching international trade law.

I've been advised that only 10 of 49 VQA brands are distributed through the LCBO. That is a market failure, and it's not an unusual one. I taught a course in 2001 on e-business concepts, and we did a study of wine.com, which was one of the first wine Web sites set up in the United States. It was set up specifically because there were a large number of brands in California and elsewhere which could not get distribution. The concept was that these smaller, more exotic wines would be sold through wine.com. So I would suggest that this is a problem faced not only in Ontario but elsewhere.

There are at least two issues that arise from an international trade law standpoint: The first is with respect to the sale of goods and the second is with respect to the investment opportunity provided to Canadian investors and investors in the United States and Mexico.

With respect to the sale-of-goods provisions, VQA wine stores would be completely consistent with Canada's NAFTA and WTO obligations if they were required to meet the same distribution and marketing obligations that are imposed upon the LCBO by virtue of those agreements.

With respect to the investment issue, it depends upon the interplay between NAFTA chapter 11, which is the investment chapter, and NAFTA chapter 15, which allows monopolies to be designated. Clearly, we have the LCBO. If it's not operating under its grandfathering clause, it has been either directly or implicitly recognized as a monopoly. There is no reason why VQA wine stores could not shelter under that designation in the same way that the agency stores do in the rural areas. The point is that there is a way that this can occur.

If you turn to page 3 of my presentation, you'll actually find section 804 of the Canada-US free trade agreement, which was imported into NAFTA under annex 312.2. If you take a look at the second branch of it, I've highlighted the portion that is important: "Maintain a measure requiring private wine store outlets ... to discriminate in favour of wine of those provinces." As soon as you eliminate that, so there's no discrimination in terms of Ontario wine, you should have no problem from an international trade law standpoint.

The key is that what those obligations imposed upon the LCBO are and how you would get the stores to follow them. The vision that I see underlying this bill—and this is obviously not from an international law standpoint; this is just my own observation—is that if you had wine stores in Ontario that were VQA wine stores, and if they were to provide distribution for those brands that can't find distribution otherwise, and if they could go out and find other brands from California, Australia and other places that are similarly placed, what you're actually doing is increasing selection and competition within Ontario; you're probably building relationships between Ontario wineries and foreign wineries. I've done studies of Canada's innovation policy, and its relationship between Canadian producers and foreign producers in all kinds of activities is important.

On my review, it is quite possible to set these stores up and to do so in a way which is consistent with international trade law.

The Vice-Chair: You're finished your presentation, Dr. Gastle?

Dr. Gastle: Yes.

The Vice-Chair: The third party.

Mr. Kormos: On page 4 you write, "If the VQA stores only sold Ontario wine," in contrast with the scenario you just described, "the provision would represent a de facto if not a de jure breach." You're suggesting that it may not be a literal legal breach?

Dr. Gastle: Under international trade law you can't have disguised provisions, in the sense that international trade law tribunals will look beyond the wording of a section to actually see the way it is implemented. If, for instance, you had a provision that said these stores will not discriminate in favour, but they did in fact discriminate, the tribunal could look beyond that and still find a breach of Canada's trade law obligations.

Mr. Kormos: One of the things we were confronted with this morning is the scale of, let's say, the California wine industry compared to ours. If there is a breach, what does it amount to in terms of penalty or damages or consequences when you look at what is the real impact of the breach on that American manufacturer with a small, boutique-type VQA store that is being contemplated?

Dr. Gastle: I can't answer that question, because it would depend on the scale of the stores and the scale of the impact. Given that the previous presenter was talking about all of these stores that exist in Pennsylvania—I did not look at the American obligations under NAFTA to see whether there are similar provisions or not—the first question is, would anyone launch a complaint? Assuming they do, where would they launch it? Would they launch it under NAFTA, or would they launch it under the WTO? I would suggest that they would launch it under the WTO, not under NAFTA, because basically the same provisions exist given what happened before. You would go through a long process that would eventually lead to a determination that Canada was in breach, and would be given a period of time in which to bring its practices into compliance. If Canada failed to do it, there would be a determination as to the amount of retaliation, and it would really be to the market impact. Presumably, it would be limited to those stores and the impact of those stores.

1620

The Vice-Chair: Mrs. Van Bommel.

Mrs. Van Bommel: I also want to reference back to page 4. You're talking about how VQA stores would have to sell more than just Ontario wines in order to avoid breaching the Canadian trade agreements. But then what makes that different from what is already happening in the LCBO, where we have VQA wines now mixed in with wines from other countries? I'm not sure I see the advantage of trying to get VQA out there for the public and promoting it just to get it in front of everyone and to have everyone drinking VQA wines if they're still mixed in with wines from other countries.

Dr. Gastle: I'm a lawyer. That is a marketing question. From a legal standpoint, I'm not sure there necessarily would be a difference, because you're acting under the same kind of distribution scheme.

From a marketing standpoint, I'd just ask this question, because there are many other people here who could answer it much better. If you have the co-operatives selecting which wines are going to be in the store, obviously they're able to select their brands which are not otherwise listed. If they're able to go out and, in order to build the attractiveness of these stores, are able to go to find some excellent wines similarly placed in other countries, what you could end up with, in my view, is a retail outlet that broadens the selection that exists. You would also promote the VQA wines in the sense that they would almost be, pardon the phrase, guilty by association. If

you've got some of the finest wines coming from California and other places and you've got the Ontario wines there as well, I think you're building the brand and building the quality. That's a marketing answer to your question, though; it's not a legal one.

The Vice-Chair: Mr. Hudak.

Mr. Hudak: Dr. Gastle, thank you very much for your presentation. It was obviously very well thought out. I've enjoyed our conversations on this issue, and I do appreciate your efforts to find ways to make these types of stores become reality. I'll hope that we'll have a chance as a committee to consider Dr. Gastle's suggestions for improvements.

Back to my colleague Mr. Kormos's line of questions: If there were a remedy ordered, you said it likely would be targeted at the particular stores. The remedy would then be to say, "OK, now you have to put some imports on the shelf alongside your VQA." Is that the type of remedy that would exist, or is it a fine? How does the remedy actually work?

Dr. Gastle: There would be a finding by the WTO that Canada had to bring its practices into compliance, and they would be given a period of time to do that. It's unlikely that the WTO would specify exactly how that compliance would occur. Canada would be required to find a way that they believed complied. It would then notify the WTO, and the WTO would then determine, if asked to do so, whether or not compliance had actually occurred. One caveat to that: I haven't looked at the dispute settlement mechanisms in the European Union-Canada agreement, and I'd like to go back and take a quick look to see if there are any special dispute settlement mechanisms there. Assuming there are not, you're just under the general dispute settlement mechanism.

Mr. Hudak: Your presentation is similar in its outcome to the wine council's, which was, if there are trade concerns, the wine council's then preferred vehicle was speciality wine retail stores that would feature these VQA products that have trouble getting on the LCBO shelves alongside some high-end import wines that would raise their profile. We heard that from Linda Franklin, and I know Don Ziraldo from Inniskillin makes a similar point.

Is it possible to amend the legislation as it stands to meet the objections, making sure that it complies with trade agreements, or do you have to start again?

Dr. Gastle: I think you can easily amend it. It's just a question of inserting the words that they will be required to meet Canada's international trade obligations in terms of its distribution. Once you do that, the trade issue falls away.

Mr. Hudak: I appreciate your point too in terms of describing the broken market. We heard over and over again today that it does not currently function for the majority of small and medium-sized VQA craft producers, that the economics of the LCBO, the demands of quantity simply won't help them fit.

Dr. Gastle: I'd like to turn that around and say maybe it's a failure for the consumers, because if one likes wine, I think it would be a wonderful opportunity to go and find a greater selection of some of these brands and some of these vintages that you can't get. I wonder if some of these wineries and some of the people who run the wineries may be well placed to identify some of these kinds of exotic brands. It's kind of an interesting experiment in that regard, but again, these are marketing questions, and I'm a lawyer.

The Vice-Chair: Thank you very much, Dr. Gastle.

INTERNATIONAL WINE TRADE COUNCIL OF CANADA

The Vice-Chair: I now call upon the International Wine Trade Council of Canada to come forward. Welcome, gentlemen, and please identify yourselves.

Mr. Rick Slomka: Good afternoon. My name is Rick Slomka. I'm the Canadian director for the Wine Institute of California. My colleague is Ron Fiorelli. He is the director for Canada for Wines of Germany. However, we're both here today as representatives of the International Wine Trade Council of Canada, an association representing the major wine regions of the world that trade with Canada and Ontario. Our members include Australia, California, France, Germany, Greece, Italy, New Zealand, Portugal, South Africa, Spain and New York state. This presentation we're making today represents the views of our membership, whose regions account for 85% of the wine imported into the Ontario market.

Our association is actually very supportive of the VQA wine industry. We are also supportive of expanded distribution for wines in the province of Ontario, but we do have some concerns about this proposal.

Our opposition to this bill has been expressed in a letter directed to the Chair of this standing committee, but with your permission, we'd like to highlight some of our concerns and answer any of your questions.

There are really four key reasons behind our objections to the passage of this proposal.

First of all is fairness in the market. This bill would effectively create an additional and exclusive distribution channel for VQA wines to the exclusion of all other products. This is very unfair to all the import suppliers who have worked hard and invested heavily for several years to help develop the wine market in Ontario. Currently, import wines can only be sold through the government-operated LCBO system.

VQA wines are also sold through the 598 LCBO stores, but also have exclusive distribution privileges through more than 390 winery retail stores, a distribution channel not available to imports.

Creating a set of stores that specialize in VQA wines would divert customer traffic from the LCBO, which would reduce the number of consumers who will be exposed to and have the opportunity to consider purchasing import wines.

Our second reason is that we believe adding new VQA-only stores would violate international trade

agreements. Both NAFTA and GATT created free trade access for goods and services in Canada and Ontario based on the principle of national treatment, which means imports and locally produced products must be treated equally, especially once a product has entered the country. This principle is one of the foundations of all bilateral and multilateral trade agreements.

Notwithstanding this principle, winery-operated retail stores that were in existence prior to the implementation of NAFTA were allowed to continue to operate under the protection of a grandfather clause. It was never the intention or spirit of NAFTA or other international agreements to extend this grandfather clause to cover new distribution channels. Therefore, any new distribution channels created must be open to both local and imported products.

Our third reason is the impact on government revenue. Wines sold outside of the LCBO distribution channel effectively reduce revenues to the LCBO, and that could impact the dividend that the LCBO submits to the provincial government.

1630

If we can assume that every bottle of VQA wine sold in these new proposed stores represents one less bottle sold through the LCBO, the revenue loss to the LCBO could be substantial. Ontario wines sold through the LCBO are subject to an LCBO markup of 58% and a wine levy of $1.62 per litre. Wines sold through winery retail stores are not subject to any LCBO markup or wine levy. Therefore, on a $14 bottle of VQA table wine that is sold at the LCBO, the LCBO realizes a markup of $5; on a $50 half-bottle of icewine, the LCBO's markup is $15.32.

With less VQA wines available for sale in the LCBO and the revenue loss of either $5 or $15 per bottle, the LCBO will need to recover this revenue elsewhere. We believe the LCBO will be forced to increase the markup on import products and, as a result, the retail prices of import products will increase. Higher import prices at both the retail and licensee levels will have a negative impact on consumption, reduce demand and may affect jobs throughout the food service and hospitality industry, as well as the beverage alcohol industry and maybe even the LCBO.

One of the tables attached to this presentation illustrates the difference of taxation between wines that are sold through the LCBO and the winery retail stores.

Our fourth point is that we don't feel new VQA wine stores are required. We think there is significant potential for the growth of VQA wines within the current retail channels by better merchandising methods.

As indicated earlier, VQA wines already have potential distribution in 598 LCBO stores and 390 winery retail stores. This is 65% more distribution than import wines currently enjoy. Despite this distribution advantage, we believe there are several missed merchandising opportunities that should increase VQA sales through the LCBO. The problem is that consumers are confused and have difficulty distinguishing VQA wines, which are 100% Ontario grapes, versus cellared-in-Canada wines, which contain only 10%— soon to be only 1%—Ontario wine. In most LCBO stores, the VQA wines and the cellared wines blend together on the shelf, making it difficult for consumers to understand the difference. This also happens in many winery retail stores.

In addition to the in-store merchandising confusion, the LCBO and the Ontario wine industry add to the problem by promoting and advertising both the VQA and cellared wines as Ontario wines. A recent flyer published by the LCBO identified several cellared wines as Ontario wine. The flyer was distributed in more than three quarters of a million newspapers and coincided with large displays in the LCBO also identifying these wines as Ontario wines.

We believe consumers will ultimately be more supportive of VQA wines if it is easier for them to determine the true content of the wine they are purchasing. The solution, therefore, is to completely separate VQA wines from cellared wines in the LCBO and the winery retail stores. We also encourage the LCBO and wine stores to aggressively promote the VQA wines as 100% Canadian wine and to better educate the consumer that cellared wines only contain minimal Canadian wine. This is a solution that we believe will increase VQA sales and be trade compliant at the same time.

In summary, we believe there should be fair access to any new distribution channels, that international trade agreements should be respected, that LCBO and government revenue should be protected and that the VQA should take advantage of the opportunities for growth within the existing current structure.

Thank you for your time.

The Vice-Chair: Thank you, Mr. Slomka. The government: Mrs. Van Bommel.

Mrs. Van Bommel: I want to just go back to the issue of consumer confusion around VQA and cellared-in-Ontario. Do you think, especially now with a lot of the discussion that's going on and the debate that we have here today, as well as in the press, that some of that confusion may be impacting on the VQA and the sale of VQA?

Mr. Slomka: Yes, I really think so. I believe that consumers have this difficulty in separating the two, and I think if a better job was done of merchandising VQA within the LCBO and the winery retail stores, there would be a greater consumer appreciation for these wines and, ultimately, more growth.

Mrs. Van Bommel: Do you think that would be possible under the current system?

Mr. Slomka: Very much so.

The Vice-Chair: Mr. Hudak.

Mr. Hudak: Thanks very much for your presentation. Obviously, we're going to disagree quite strongly with some of the points you make. With respect, I think some of the solutions you offer aren't really solutions. We heard it a lot today, and it's no surprise to you, that the import wines are doing very well, thank you very much, at the LCBO. In fact, I hear over and over again from

producers that the LCBO is basically a foreign wineries outlet while a lot of domestic wineries can't even get their product to market there.

Recently, outraged Ontario consumers—the usual promotion this spring for VQA was changed to focus on South America and the southern hemisphere imports. A recent OMAF study, I think, cited that the EU, which I know has a number of members on your commission, has a $6-billion subsidy for their domestic wine industry. You're criticizing chicken feed compared to a $6-billion EU subsidy to their wine industry. Does any of that go into export subsidies to go into North American markets?

Mr. Slomka: I'm not aware of that.

Mr. Hudak: So I'm sorry. I'm not sympathetic to a cry poor from the imports when they're backed up by a $6-billion purse from the home countries to crowd out Ontario wines within their own domestic market space. Recently, if I understand correctly—I've heard this from the wineries—with the government of France, the LCBO did the "Ooh là là" campaign with some subsidies from outside of this province, using foreign dollars to promote French product here within the province of Ontario.

Forgive me for asking, then, for a little bit of market access for small VQA producers. Isn't there a bit of an equity issue here between the guy who's producing 2,000 or 3,000 cases, investing in his or her land in the province of Ontario, against the big guys backed up by $6 billion from Europe?

Mr. Slomka: We're totally supportive of VQA industry. All we're saying is that you need to respect your trade obligations. You have to be responsible with the revenue protection. I'm not saying that VQA should not be better promoted. In fact, we're saying that it should be better promoted within the LCBO system.

Mr. Hudak: The point that the small wineries brought up over and over again today, from the grape growers, was the need for a VQA channel. Sure, we can help out in the LCBO, and more work needs to be done, but we've heard quite strongly and quite consistently that they need that channel because the current LCBO is so dominated, with 60%-plus of shelf space, by imported wines. Surely, there must be some market access solution for the small VQA group.

Mr. Ron Fiorelli: There is one access I'd like to mention: The LCBO has a craft program that allows small wineries access to the LCBO.

Mr. Hudak: Sure. I was the minister who brought that forward, so I'm very familiar with it, and I'm proud of it.

Mr. Fiorelli: It has extended opportunities for these small wineries for longer periods of—

Mr. Hudak: How many wineries—

The Vice-Chair: Sorry, Mr. Hudak, your time is up. If you could just let Mr. Fiorelli answer the question, please.

Mr. Hudak: The point I was making is, that's helpful, and there are 12 wineries that benefited from it and 15 VQA wineries that sustain a listing at the LCBO, but there are 80-something that don't. The system, as we heard earlier, is a bit of a broken market. That's why I feel strongly—we heard very strongly from the majority of the participants here today—that we do need another channel.

I appreciate your points, with all due respect. I think I just need to vocalize the things that I hear locally and from the industry about the unfair advantage.

The Vice-Chair: Thank you, gentlemen.

1640

ONTARIO IMPORTED WINE-SPIRIT-BEER ASSOCIATION

The Vice-Chair: The next group is the Ontario Imported Wine-Spirit-Beer Association. Welcome.

Mr. Ian Campbell: Good afternoon. My name is Ian Campbell. I'm the executive director of the Ontario Imported Wine-Spirit-Beer Association. I'm appearing before the standing committee this afternoon to outline our association's strong opposition to Bill 7, An Act to authorize a group of manufacturers of Ontario wines to sell Vintners Quality Alliance wines, commonly referred to as the VQA Wine Stores Act.

Established in 1958, the OIWSBA is the provincial trade association representing manufacturers, agents, importers, marketing groups, international trade offices and distributors of imported beverage alcohol products in Ontario. OIWSBA represents more than 90% of all imported beverage alcohol products sold in Ontario. Our members are Ontario businesses that provide direct and secondary employment to at least 1,700 people across the province.

Members of our association are strongly opposed to Bill 7. As you're aware, the bill proposes that the Liquor Control Act be amended to allow for the establishment of new wine retail stores selling only VQA wines. Ontario wineries would be permitted to group together to sell each other's products. Cabinet would be given the authority to determine the number, location and ownership model of these proposed Ontario VQA wine stores.

The spirit and intent of Bill 7 is to secure new retail opportunities for domestic wineries only and not for imported wine suppliers. The bill's discrimination against imported wine suppliers is inconsistent with international trade agreement requirements to which Canada, and by extension the government of Ontario and the LCBO, is a party.

Restrictions governing privately operated beverage alcohol retail outlets in Ontario date back to the signing of the Canada-US free trade agreement in October 1987. The FTA introduced strict national treatment obligations for signatories on a prospective basis. The FTA did not prevent the continuation or prompt renewal of nonconforming provisions of any existing measure. All Ontario winery stores in operation, in the process of being built or for which an application to operate had been approved by the LCBO on or before October 4, 1987, were effectively grandfathered. Going forward, wine sales from such stores would be limited to only those products made by that manufacturer.

Canada's national treatment obligations deepened with the implementation of NAFTA in January 1994 and the Canada-European community wine and spirits agreement in June 2004, amending the February 28, 1989, Canada-European economic community agreement concerning trade and commerce in beverage alcohol products.

We note that article C of the Canada-EC agreement, the most recent agreement signed, states: "Canadian competent authorities shall accord national treatment and most-favoured nation treatment to alcoholic beverages that are the product of the community in accordance with the WTO agreement. With respect to a province, national treatment and most-favoured nation treatment shall mean treatment no less favourable than the most favourable treatment accorded by such province to any like goods that are the product of Canada or of any third country." Canada's national treatment obligations are clearly spelled out in each of these trade agreements.

Article F of the Canada-EC agreement gave the European community the right to request an independent audit of any liquor board's cost of service differential in line with standard accounting procedures within one year of entering into force of the agreement. That right was exercised here in Ontario and also in two other provincial liquor jurisdictions in Canada. While this may seem highly technical in nature, it's a clear sign that the LCBO and other jurisdictions' treatment of imported beverage alcohol products is being watched very closely. As such, it's very likely that that the enactment of Bill 7 would prompt an immediate trade challenge. The prospects of a successful defence appear minimal at best.

We note that the Beverage Alcohol System Review Panel retained independent legal counsel as it considered comprehensive changes to Ontario's beverage alcohol retailing and distribution system. Proposals to establish new VQA stores and to allow cross-selling of Ontario wines by other manufacturers were put forward for consideration by the panel. They were dismissed out of hand on the strength of a legal opinion secured by the panel which cited inconsistencies with Ontario's international trade obligations.

Awareness of the trade sensitivities of Bill 7 is long-standing. An attempt was made by the previous government to have Bill 7 passed by including the text, word for word, in an omnibus red tape bill sponsored by the Ministry of Municipal Affairs and Housing. This was a surprising move given the far-reaching and serious implications of this draft legislation. The matter could have been introduced on its own by the sponsor of Bill 7, who was then the Minister of Consumer and Business Services and had responsibility for the oversight of the LCBO.

Concern has been expressed about the lack of retail opportunities for small and mid-sized Ontario wineries. These concerns are not unique to Ontario suppliers. I think that's a very important point. They're shared by similarly-sized suppliers in the 67 international jurisdictions from which the LCBO sources product. In the context of a free trade environment, any measures to assist these domestic suppliers must also assist imported beverage alcohol suppliers. Bill 7 fails to take this into account.

The OIWSBA supports unfettered competition, both at home and abroad. We're committed to a shared marketplace in Ontario and a level playing field for all industry suppliers. Our association supports a strong and prosperous Ontario wine industry. The accomplishments of this industry reflect well on the whole of the beverage alcohol industry. I should note that despite our primary focus on imported products, members of our association also represent the products of numerous small Ontario wineries and some small Ontario Ontario breweries. Our members have been instrumental in helping Ontario wineries grow their businesses through cost-effective representation to licensed establishments across Ontario. Our association assisted Ontario wineries in securing access to European markets for Ontario icewines and has offered support to the Wine Council of Ontario to help it resolve any trade concerns through established international trade dispute resolution channels.

When asked for our thoughts on changes to Ontario's beverage alcohol retailing and distribution network, we put forward ideas to benefit all industry players. Our association recommended to the Beverage Alcohol System Review Panel that a number of new independent retail stores be established to complement the LCBO's retail network. These stores, stocking both domestic and imported products, would enable small and mid-sized suppliers to gain a foothold in the Ontario marketplace. Consumers would benefit from the introduction of smaller brands, new products, niche-market items and limited-volume products. We also recommended that a third party warehouse be established to allow the LCBO to focus on its core business. In addition to the commercialization of consignment operations, this would also facilitate direct deliveries for small Ontario wineries and breweries.

In closing, we urge members of the standing committee on regulations and private bills to recognize the government of Ontario's international trade agreement obligations and the significant limitations they pose on changes to Ontario's beverage alcohol retailing and distribution network.

In light of these ongoing trade agreement obligations, we urge committee members to reject Bill 7. Thank you.

The Vice-Chair: Thank you, Mr. Campbell.

Mr. Hudak.

Mr. Hudak: Mr. Campbell, thanks very much for your presentation. You and I have had a few bouts over this, over the last few years.

Mr. Campbell: We have.

Mr. Hudak: We've dug in to our particular positions.

As I have said to you, and to the gentleman before, I don't have a great deal of sympathy for any cry of unfair market access by the importers that so dominate our LCBO system. My God, you could look at any of the Vintages, any of the LCBO productions, and while there has been some progress made, they're dominated by the

imports, many of which you represent. You're a good spokesman for that cause, but I disagree with that cry of unfair market access, particularly when we hear today stories from the small VQA producers that they can't get—those that you represent, or a good portion of them, have the wherewithal, backed up by governments back home, to buy in to the LCBO merchandising programs; they have the greater ability to meet supply chain demands. I do believe fundamentally that there is a market failure that works to discriminate against the small VQA producers.

Mr. Campbell: I have to disagree with that. This market failure you talk about doesn't target small VQA suppliers; it targets everybody who tries to feed the LCBO. So your script for the Ontario wineries is a script for 67 jurisdictions around the world. Those suppliers in Ontario that can't feed the LCBO—there are 66 other jurisdictions where suppliers similarly sized have the same problems. That's why we've suggested that a new complement of stores be established.

I heard from the wine council this morning and I heard from Spirits Canada just recently that they wouldn't have any problem with a new set of stores open to all suppliers being established, because right now, the LCBO, with their just-in-time delivery and their large size, appeals to large suppliers with big ad budgets and fast-moving products. But it's what I call the middlers, the small and medium-sized players, that have no access to the marketplace, both domestic and international suppliers.

Mr. Hudak: Professor Gastle talked a little bit about this, and, as you said earlier, you were there when the Wine Council of Ontario talked about transforming the VQA wine stores into certain specialty, niche—

Mr. Campbell: Not branding VQA wine stores, just new independent retail operations. We don't have a problem with that at all. We fully support it. We recommended it to the Beverage Alcohol System Review Panel. So branding that as a VQA store, I think, is a misnomer. I think you would just talk about a new set of stores supplying all products—beer, wine and spirits—and accommodating products from both domestic and international suppliers.

Mr. Hudak: Surely to God there's some sympathy that you have for small and medium-sized VQA producers you heard about today. That's got to touch you at some point. Don't you think that if you do these specialized stores, at the very least they should be constructed so that they can feature these small VQA suppliers, or are you just willing to write them off and dominate with imports?

Mr. Campbell: Let's take the emotion out of this.

Mr. Hudak: But how can you not—

Mr. Campbell: In an international trade agreement, when you have those obligations, all suppliers are faceless. So take the emotion out. The problems that these small suppliers are having, everybody is having.

Mr. Hudak: I'm just not willing to write them off like that.

Mr. McMeekin: Nobody beat up your people this morning, Tim.

Mr. Campbell: I think we've really taken the high road. We've put forward proposals that benefit everybody that wouldn't be rejected by Spirits Canada or the wine council. The wine council said, "If the government's reservations regarding trade concerns cannot be overcome, we would be entirely comfortable with a proposal that broadened access to these stores to other beverage alcohol suppliers." That's exactly what we recommended.

1650

The Vice-Chair: Mr. Kormos.

Mr. Kormos: Mr. Hudak can have my time.

Mr. Hudak: Thank you, Mr Kormos, and thank you, Chair. I guess maybe because we hear from them, they're constituents of mine, they're making an investment in agriculture that supports other government initiatives, I've got to think that, surely to God, we should approach this issue as opposed to saying everybody's faceless. These are small business people who, because of market failure, cannot get access—

Mr. Campbell: These are international trade laws as well.

Mr. Hudak: Yes, I know that's your overarching goal, and you've got to make the case for who pays your bills. I appreciate that, but I think we have a duty as Ontario representatives as well to advocate for our constituents, to advocate for small businesses in our area and to correct market failure.

You always push me to do more for the imports and to change the LCBO system to do that—that's your job—but surely to God, there's got to be some balance in this issue.

Mr. Campbell: Members of my association are small Ontario businesses representing these wines here in Ontario.

Mr. Hudak: Yes, but every small VQA supplier that I've heard from—correct me if I'm wrong—does want to see greater market access. I think they would take my side of the issue, rather than those from the French, American or other European wineries that have huge—

Mr. Campbell: You're saying your constituents would take your—

Mr. Hudak: —subsidies.

Mr. Campbell: I expect that.

Mr. Hudak: I don't think that they see it as a faceless issue. They have a strong sympathy for those—

Mr. Campbell: It's the first principle of international trade law. You've got a master's in economics; I do as well. The first thing you learn in international trade theory is that suppliers are faceless.

Mr. Hudak: I'd ask you, along sort of the Gastle/wine council suggestions, that if you were to construct a parallel system and make an amendment like Gastle had suggested, don't you think it should be constructed to specialize or to solve these problems, to help out the small producers?

Mr. Campbell: He talked about sheltering these stores being similar to sheltering agency stores, but you have to understand that an agency store stocks all pro-

ducts and treats all suppliers equally, so it's apples and oranges to shelter something like this.

The Vice-Chair: Thank you, Mr. Hudak. You've used up Mr. Kormos's time as well now, so I'm going to turn to the government.

Ms. Mossop: Can you give us some sense, if this were to pass and we were to go ahead and try to set up VQA-only stores, what the international kickback would be, what the ramification would be?

Mr. Campbell: I noted in the presentation the fact that with the Canada-EC agreement that came into effect last year, they had one year to challenge the audit of the LCBO cost-of-service differential. They were on it in a heartbeat. There are 66 jurisdictions that feed the LCBO, aside from Ontario.

Ms. Mossop: There's this sense that keeps coming back that maybe we're just too timid when it comes to trade issues; maybe we should just stand up for our own and get on with it, and trade issues be damned.

Mr. Campbell: I think it's a really serious decision for government. It's being watched, I can tell you, very, very closely by major suppliers around the world—not just Europe, but new markets: New Zealand, South Africa, Australia. All the suppliers are watching this market very, very closely.

I've heard other presentations talking about Ontario wineries not having a presence abroad versus the wines that are flooding the market here. You have to understand that in Europe there are 3.5 million acres of vineyards. There are 15,000 in Ontario, so it really is a blip. We're not a major exporting market. The wine council, in its long-term wine strategy, wants to have 5% of production going for export in the year 2020, which is 15 years from now. It's very modest to ramp up to 5% of total production going for export.

It's a convenient argument to say, "We're discriminated against abroad, therefore we should discriminate here." It doesn't wash, because the whole focus is the domestic market for domestic wines.

Ms. Mossop: This amendment that was referred to earlier—I believe you were here for Mr. Gastle's presentation, where he suggested that we could change the structure. How would you view that structure to be? It wouldn't be a VQA store.

Mr. Campbell: No, not at all. It would be branded as a new retail operation. We suggested, very similarly to the Beverage Alcohol System Review Panel, that new licences be issued and that they be limited so that Loblaws and Dominion stores or others don't get all of the authorizations. They'd be spread around the province to complement the LCBO system, would stock all products, domestic and imported, and the full range of products: beer, wine and spirits.

Ms. Mossop: Would they be geared to the smaller—

Mr. Campbell: The small and mid-sized niche market players. They would be eclectic stores in tourist areas that would appeal to products not otherwise stocked by the LCBO.

The Vice-Chair: Thank you very much, Mr. Campbell.

PRINCE EDWARD COUNTY WINEGROWERS ASSOCIATION

The Vice-Chair: The next deputant is the Prince Edward County Winegrowers Association. Welcome.

Mr. Richard Johnston: Thank you, Mr. Vice-Chair. My name is Richard Johnston. I'm chair of the Prince Edward County Winegrowers Association. This is Debra Marshall, who is the secretary of the association. We come at this from a very different perspective. We're very pleased to welcome what we see as a positive initiative to support authentic Ontario wines. Our association is made up of growers and wineries in the county, and we're working collaboratively to produce locally grown fine wines.

Our main message to the committee is that it's time to take a number of steps to level the playing field for new wineries and to support an agriculturally based wine industry in Ontario. I think domestic is exactly where we should be going, as they do in France and elsewhere. These VQA stores may be one way to do that.

For example, there are special privileges for wineries that happen to have been established before 1993 and there are special rights bestowed on wineries that happen to be located in a designated viticulture area in the province, and they don't apply to those of us who are trying to expand the boundaries of cool-climate viticulture.

The rules of the LCBO make it extremely difficult for small boutique or cottage wineries to get shelf space even in their own home communities. It's unthinkable that we would be trying to export, by the way. I just can't imagine a winery like ours, with 2,000 cases, looking toward exporting to France.

Although we have thousands of hectares of vineyards, government dollars to support a local wine strategy end up promoting wines that are blended in Ontario with large amounts of imported wine.

An official wine map displayed in the LCBO stores across Ontario and supported by taxpayers' dollars only identifies Ontario Wine Council members, meaning that those wineries who can't afford the hefty membership fees and don't mind a constitution that enshrines the dominance of the council by its two largest members basically aren't on the map. The other licensed wineries in the province must use their own funds to compete against a publicly funded advertising campaign. These are just a few examples of the range of anomalies that are out there.

We need steps such as VQA stores to make it easier for entrepreneurs like those of us in Prince Edward county to succeed. I'm sure that most of you are aware that the county's economy was stagnant for decades following the demise of our canning factories. Today it has enormous vitality, in substantial part because of the development of our wine industry, despite the plethora of bureaucratic hurdles to jump through that now confront us and other new wineries.

As you'll note in the attached background information, over $30 million has been invested, over 600 acres have

been planted and there are now 12 wineries since PECWA was established in 2000.

We believe that this agricultural economic development model is much better for Ontario and the province's coffers than importing tanker loads of foreign wine, which then undermine the viability of the VQA-based product.

Why is the government not supporting this model as preferential to the import model? Ontario is a total anomaly in the world of wine. We're the only ones who base our domestic industry on blending with imported wines. As a result of the two-tiered classes of wineries, we can only sell wine from our individual wine stores on our own properties. We cannot sell in a collective outlet, as is suggested in Bill 7. We can't get access to the boutiques in supermarkets that are controlled by the original wineries, which sell primarily foreign-based wines there. With recent short crops in Niagara, the big blenders have even been permitted to sell their foreign-based products to restaurants at the same lower tax rate normally reserved for VQA wines.

Ironically, although all the wines from my winery are Ontario grown and even principally county grown, as validated by one of our subcommittees, dominated by vineyard owners, not wineries, I had to pay the tax rate reserved for totally foreign product. I was treated like a Chilean wine. This anomaly occurred because I decided to follow the PECWA authenticity process, which we've brought a sample of here, in terms of requiring 100% county content in order to get approval, rather than going through VQA.

PECWA believes that the VQA stores with markups that are similar to those used for our winery stores could be part of the solution. We also encourage the Legislature to consider recommending that the government instruct the LCBO to permit their store managers to order wines directly from any licensed winery in the province without going through the LCBO warehouse and transportation system that is the excuse for the extra levy, totalling almost 60%. We wonder if VQA stores could actually be part of the product-of-Ontario stores that could showcase Ontario art, craft, microbreweries and fruit wineries, for example, and be located in large urban centres and tourist areas.

1700

If the LCBO can permit the corner store in a village like Consecon, which is in Prince Edward county, only 15 minutes from the Wellington LCBO store, to sell primarily foreign wines when it has a struggling wine industry sprouting in the surrounding countryside, why should the concept of VQA stores or product-of-Ontario stores be impossible?

The member for Erie–Lincoln will remember that as minister he visited the county and learned that, not being part of a DVA, our wineries were only allowed to buy as many grapes from Ontario growers as they could grow or purchase in Prince Edward county. He provided us with a temporary fix, given our youth and a difficult winter, but we still face these restrictions that prevent us from benefiting Ontario grape growers in their good growing years. Their excess grapes could be going into VQA Ontario wines from Prince Edward county, making both of us more profitable.

To conclude, we would say that collective stores for VQA producers and those making 100% Ontario wines, including small-volume producers, would be one step in fixing an inequitable regulatory environment, but we do encourage the Legislature to look at the full picture. Without broader reform, the initial success of the Prince Edward county experiment could be undone by legislative double standards, sweetheart deals and misleading labelling.

The Chair: Thank you, Mr. Johnston. Questions and comments?

Mr. Kormos: One of the tensions in this discussion is the proposal that these stores would be privately operated stores, as compared to LCBO-operated stores. You know my preference. As a matter of fact, it's a deal-breaker or deal-maker in terms of support for the bill. What's your view about the LCBO's ability to achieve this end if it were given a mandate to do so?

Mr. Johnston: I think the important part is the last part. If it was given the mandate to do it, I think it could handle it. That's my personal view. The association has not taken a position on this and would probably be split—that would be my guess—in terms of their preferences as to whether there be a new system of for-profit or collectively owned stores or whether they be run through the LCBO.

Mr. Kormos: We've only gotten suggestions. Andrés and Vincor are the two big players on the wine council. Nobody has spit it out. If I recall, you've got parliamentary immunity here in the committee room. What's going on with this wine council? People have been wanting to dance around the issue of Andrés and Vincor, but nobody has ever wanted to really just lay it out and say it the way you feel it.

Mr. Johnston: I think the wine council has been trying to serve its membership very effectively, but its membership has very split mandates. It's got the old guys, those being two of them, or if you go back farther, Brights and Andrés, that are dominant. But it also has a number of others who have been relying on blended product, and it's got a whole bunch more of them—the majority, in point of fact—who are producing Ontario-based VQA wines. I think it's having real trouble merging those two interests because, as I said in our presentation, it turns out that we keep bending over backwards to help the blenders, and that's really hurting the rest of us.

I don't know if this stat has been thrown out at you, but our information has been that VQA sales, which were growing for the last number of years, after the last short-crop situation have actually dropped by 30% because of the confusion on the shelves. That's something that should upset a lot of the wine council members, and I think they're having trouble speaking with one voice. Those of us in an area like Prince Edward county—some members are wine council members, and the vast majority of us are not.

Mr. Kormos: Are you saying, then, that people are buying Maria Christina thinking that it's 100% Ontario grape?

Mr. Johnston: Absolutely. If you go to the wine stores these days, you'll find at least 30% to 40% of the product on the VQA Ontario shelves is actually foreign product.

Mr. Kormos: Then they walk away saying, "This touted Ontario grape is plonk."

Mr. Johnston: It's really hurting the viability of the rest of us, who, by the way, spend an awful lot more money growing our grapes because of cool climate realities. We have to bury all of our grapes and bring them up by hand every year. It's much harder for us to make a go of it if people are still suspicious that we're somehow blending this with foreign product.

The Vice-Chair: Thank you. Government members.

Ms. Mossop: Thank you very much for your presentation. I tremendously admire your pioneering spirit. I think a number of years ago they would say, "What do you mean, you're going to grow grapes in Prince Edward county? It's not possible." But there you go.

Mr. Johnston: They still say that.

Ms. Mossop: Well, you're proving them wrong.

We've been wrestling, wrestling, wrestling, because we're really all very supportive of our domestic industry, with finding a way to do this that's realistic and will work. One of the things that came up was the potential of sharing the existing licences somehow and whether they can be auctioned off, if the main guys who hold those are willing to do that. Of course, if there's money involved, they probably might be willing to do that, or we can get around it. But then the question comes up that the taxes plus the overhead of running those stores would pretty much be—you may as well just go through Vintages, then, because you're going to be running into the same kinds of costs. Do you think that if we could find some way of increasing the profile of the small craft wineries, the cottage wineries, through Vintages, that is an acceptable approach?

Mr. Johnston: It would be helpful, but I don't think there are very many Vintages stores, for instance, between Cobourg and Kingston. In our region, what would be more helpful would be allowing the local managers to actually put some Prince Edward county wines on their shelves, which they can't do at the moment.

Ms. Mossop: Somebody else mentioned this morning that, aside from being able to sell them off your farm gate there, actually having VQA stores right in the locations where the wineries are would maybe even be cannibalizing your store, so that what you want is to go after the bigger market.

Mr. Johnston: I can't speak for the Niagara area, where there are of course even more of the small wineries. But speaking locally, we work very collaboratively and have from the beginning. As I said, we're both vineyards and wineries, and we have understood that synergy and have not had the division that the industry has had over the years between the wineries and the grape growers. So I think we would actually welcome an opportunity to have a co-operative. We actually approached the idea with ministers over time, and there was just no vehicle for doing it. But we would liked that.

The Vice-Chair: Mr. Hudak.

Mr. Hudak: Mr. Johnston, thank you very much. It's great seeing you again. Congratulations on your success, as my colleague described it, your pioneering spirit. You've gutted it out and you've come a long way. I do appreciate your support for the VQA stores and for the bill as it stands.

I appreciate my colleague talking about Vintages. There's no doubt we can do more in Vintages, but I think we need to recognize that the Vintages section in a lot of stores, as you mentioned in your area, is rather small. If we're truly trying to create destination attractions, like in Prince Edward county, like in Niagara, we need to increase exposure to tourists as well. Maybe some will go to the LCBO and wander back to the Vintages section, but I think they'd be far more impressed by specialty niche stores for VQA. Is that the line of argument you would take?

Mr. Johnston: I think they would, and to finish the answer to the Liberal member, they would still want to come to the wineries for the experience. People come to wineries for the experience more than to buy a particular wine, most of the time, so I think they would enjoy both vehicles.

Mr. Hudak: I had a chance to be back actually in the county with Carmela Estates, probably a couple of months ago—a beautiful winery. I wish I could have come by your place too. We heard from Niagara today, and obviously I'm a local member and have a lot of sympathy for the local producers. But the challenges faced by Prince Edward county producers are even greater, I would argue, in terms of access to the LCBO. So maybe you could extrapolate a little bit on some of the issues with using the LCBO as the only solution.

Mr. Johnston: There are several. The first, of course, is just the cost of getting enough product available to the LCBO and risking it out there. Because of the cost for processing it through them, you really lose money on every bottle. You'd be looking at LCBO stores, at the moment, as an advertising source for you rather than a direct income-generating source. It is just too expensive. Most of us are 5,000 cases and less, and you really cannot stock the 50 or so basic stores that the LCBO would require with that kind of volume and expect to be able to stay shelved. I think that would be a very hard thing to do.

But the other problem is that we can't get enough product. As I said, the great irony this year is that we are only allowed to buy seven tonnes of grapes from Niagara for every three tonnes we grow. If we both have a bad year, with bad winters, like we've had, we can't even get the two and a half times sourced out of Niagara or Pelee Island to be able to get enough grapes to actually keep us moving forward. A couple of our larger members have got some real problems with their business plans next year because they can't access any grapes to add. They're going to have to contract rather than going through the

natural expansion you'd expect them to, which might make them big enough to be able to make it on to those shelves for advertising purposes.

1710

The Vice-Chair: Thank you very much, Mr. Johnston.

Mr. Kormos: On a point of order, Mr. Chair: If legislative research would get for us the standards that have been referred to by several people—the hurdle of getting your products shelved, the minimum of 50 stores, whatever. That's pretty critical. If we could get from the LCBO an outline of these minimum standards that a manufacturer or a winery has to meet to get their product on the shelf, it would be helpful to all of us.

Mr. Hudak: Chair, they have an excellent exercise, I think, and I forgot to mention that your local member Mr. Parsons as well has been a very strong supporter of the concept, and we certainly appreciate his support.

Mr. Johnston: It's very helpful to us too. Thank you, Mr. Chair.

ONTARIO WINE PRODUCERS ASSOCIATION

The Vice-Chair: The next deputant is the Ontario Wine Producers Association. Please come forward.

Mr. Moray Tawse: Thank you, Chair and members of the committee, for including us in the hearings on this interesting bill. My name is Moray Tawse. I'm the owner of Tawse Winery and a founding member and on the board of directors of the Ontario Wine Producers Association, a group that was established to advocate on behalf of the wineries that produce authentic wines from Ontario's vineyards.

As you know, the only wines that Ontario consumers can buy today that they can be certain are authentic Ontario wines are those that carry the VQA designation. Ontario VQA wines, those that are certified authentic products of Ontario vineyards, only represent about 15% of the number of bottles of wine that are sold as products of Ontario. Our wine content regulations allow the majority of the so-called Ontario wines sold in our government-controlled retail system to contain up to 70% foreign content.

While we applaud the fact that the LCBO is undertaking an Ontario Superstars promotion leading up to Thanksgiving this fall, it is sad that only 57 of the 122 products promoted are actually authentic Ontario wine. Most of these so-called Ontario wines bear the categorization "cellared in Canada" in tiny print on the label. Even worse, they continue to be deceptively shelved under an Ontario banner in the province's LCBO stores. They are sold as products of Ontario, but they are not. No other serious wine-producing region allows this practice, and we hope the government, VQA and the LCBO will soon take steps to correct this misrepresentation to consumers. It is very damaging to the reputation of authentic Ontario wines, to the wineries that make 100% Ontario wine and to the grape growers who are struggling to make this Ontario a great wine-producing region.

You will have heard that in response to the serious damage done in Ontario vineyards by the severe winter of 2004-05, the government will be allowing the amount of foreign content to increase to 99% for the 2005 crop year. We hope, for the sake of consumers, that the government of Ontario will demand that the wineries that bottle these blended wines label them honestly and that the LCBO will ensure that their customers are not duped into thinking they are buying products of Ontario.

We applaud the general concept of VQA-only stores proposed by the honourable MPP from Erie–Lincoln, Mr. Tim Hudak. Whether Bill 7 actually helps small wineries like mine or offers consumers more choice will depend on how it's implemented. As the OWPA stated in our review to the Beverage Alcohol System Review Panel earlier this year, we believe that new wine and retail stores that sell only wines that are not on the general list in the LCBO should be allowed to open and be operated as collective stores for the small-volume wine producers who make 100% Ontario wine or VQA wine.

We further recommended to the government that these specialty stores be located in appropriate food retail environments, like the St. Lawrence farmers' market in Toronto, the Kitchener farmers' market, the Byward market in Ottawa and other similar sites across the province. This approach has been taken and appears to be very successful in Nova Scotia.

For the proposed VQA stores to work for the benefit of small, authentic Ontario wine producers, wines sold in these stores should be subject to the same markup provisions as on-site wine and retail stores, and the 300-odd stores owned by the giant industrial wineries which have been identified—thank you, Mr. Hudak—grandfathered under the same NAFTA that is preventing new wineries from owning them.

If the VQA stores operate under LCBO rules, small Ontario wineries will only receive 40% of the selling price. Wineries selling through a wine or a retail store keep 75% of the revenue. It is crucial that wineries that cannot operate their own stores are not penalized by paying LCBO markup levels at the proposed new VQA stores.

We also recommend that wineries that cannot operate their own off-site retail stores be allowed to sell directly to the LCBO stores. By dealing directly with individual stores and personally taking care of supply and delivery of these wines, they can eliminate the expensive central purchasing, warehousing and delivery costs to the LCBO and should accordingly be given the same markup advantage that is currently in place in off-site winery retail stores.

Direct dealing would have a greater impact than the addition of a few VQA stores, and because it is the same preferential treatment that is given to domestic wineries in the USA, there would be no question of a NAFTA challenge to this practice.

Our submission also recommends that if small wineries wish to partner with other wineries, there would be enough flexibility in the rules for the winery retail system to allow the products of their neighbours in on-site retail

stores under the same markup provisions as would prevail at each winery. This, we believe, is consistent with Bill 7.

To sum up, OWPA recommends that all wines sold in all VQA stores must be made with 100% Ontario-grown grapes and must be wines that are not sold in the LCBO. In order to ensure that the stores are viable for the wine producers, wine sold there should be at the same markup level as in winery retail stores. Adding these stores will help to level the playing field for the new wineries established since 1993 that are making wine with 100% Ontario grapes.

Direct access to individual LCBO stores for these same wineries at a similar markup would be an even more forceful initiative in support of VQA and designated wines. Honestly labelled and presented authentic wines from Ontario vineyards can proudly take their place on the wine store shelves, in the cellars of wine lovers and at the tables of all Ontario consumers.

Thank you for the opportunity to present the views of the 28 wineries that came together to form the Ontario Wine Producers Association. We look forward to working with the government of Ontario to help authentic wines from Ontario vineyards achieve this great potential.

The Vice-Chair: Mrs. Van Bommel.

Mrs. Van Bommel: All day we've been hearing a lot about VQA, and in the last two presentations there has been another thing brought in, which is the 100% Ontario wines. You spoke of having a different standard and not necessarily wanting to apply for the VQA standard. Do you think that's going to add further to the confusion that already exists between the issue of cellared-in-Ontario versus VQA? If we bring in this 100%, are consumers going to get confused and simply throw their hands up?

Mr. Tawse: I think it's more an issue as new wineries come in. I came into this business and we released our first vintage in 2002. Our mission, when we came in, was to make the best wine that could be made in Ontario. When we see some of the wines that have received VQA status—there are a lot of small wineries that think the standard should be higher. Our association, although most of our members are VQA, is pushing to support that there be a higher level of Ontario wines, and that there be really international greatness in our wines. We make fabulous wines. I think that's where you're starting to get the separation a little bit. My winemaker feels that just sticking a VQA label on a wine is an insult, because our wine has a higher standard than some of the VQA standards. I think that's where more of the issue comes from, this 100% Ontario authentic or why people don't want to go to VQA.

Mrs. Van Bommel: Are the higher standards based on taste?

Mr. Tawse: Quality—taste, quality.

Mr. Richard Johnston: If I might, Mr. Chair, from my perspective—I have both the VQA wines and the PECWA-registered wines. Sometimes we only go PECWA for ones we know we're only going to sell out of our own store; there's no need to go VQA. The advantage of VQA for us is that when I then sell to the restaurant, I get to sell them for the same rate that I sell them from the store. Other than that, we established a higher standard of content and of vintage than VQA had, and we did that deliberately. As we become a designated viticultural area some day, we'll actually be in a good bargaining position to try to help VQA up its standards.

The Vice-Chair: Mr. Hudak.

Mr. Hudak: Gentlemen, thanks very much. Mr. Tawse, congratulations on, and thank you for, the investment in west Niagara. That's a beautiful winery you've constructed on Cherry Avenue. I haven't had a chance to go inside yet; I plan on doing so soon.

Mr. Tawse: You're always welcome.

1720

Mr. Hudak: Thanks. I do appreciate your support for Bill 7 and for creating these specialty Ontario wine stores. The intent of the legislation is definitely to support those products that are 100% Ontario grape products. I think there's access already to the market for the blends. That's quite significant compared to some of the small producers in the province who don't have market access. So the big intent was to correct that field market that does exist.

That having been said, I did construct the bill to leave a good amount of latitude for cabinet to determine the number of wineries, how the partnerships would work, that sort of thing. I recognize that as a member of the opposition, I don't have as much say as I may on the other side—hopefully I will. So what would your advice be to the committee, and hopefully to cabinet, in terms of number, location and business model for a VQA store?

Mr. Tawse: Listening to some of the arguments of the people before us, it's a lot. There seem to be a lot more issues than the wineries are bringing forward, and we hear those, but in reality, it cost me—I was just looking at my cost of producing Cabernet Franc. My grape cost was $6.95 per bottle. I was just down at the winery today, and I heard that another winery in the area that was blending had just bought some Sauvignon Blanc brought in from South Africa at 25 cents a litre.

I think that we make really great wines, and our issues are that every time somebody goes into an LCBO and sees something that they perceive as an Ontario wine—they read an article about my wine. We had some fabulous articles about our winery and our wine. I've had people say, "You know, we read your article. We didn't see your wine in the LCBO"—because I cannot afford to sell it at the LCBO—"so we grabbed another Ontario wine. It was terrible. I don't know what people are talking about." When I explained to them, "Well, from now on, you might be getting a 99% Chilean wine in your Ontario bottle," they say, "Why don't I just go to the Chilean section and buy a bottle of wine, then?"

I think, from our issue, I have to find a way to get my wine—and smaller wineries—out to the consumers to try, to see how great Ontario wines really are. I didn't come into this wine business starting as a farmer; I came into this business starting as a wine lover who travelled the world and tasted wines. When I finally found some

great Ontario wines, I was just shocked at how great we can make wine, and that's why I put a substantial investment in this business.

Now I look at the problems of markup through the LCBO and the distribution of my winery, which this year released 1,000 cases. We want to get up maybe in four or five years to do 5,000 cases. We're never going to be able to compete, with our great cost, to get it down, to really use the LCBO to sell our wine. But I think our wine needs to get out there, it needs to be tried, it needs to be tested. I think that's what's going to drive the Ontario industry. We make fabulous wine here, but we have to get it in the hands of consumers all over the province, not just somebody who wants to jump in the car and drive down. Toronto's a big market for us. It's an hour's drive, and I have a lot of people say, "Oh, I'd like to come down, I'd like to try your wine," but we never see those people. It's still an hour away. So how do I get to Ottawa, how do I get to London, how do I get to those other markets if I can't fit into the way LCBO distributes their product?

The Vice-Chair: Mr. Kormos.

Mr. Kormos: You know, all over North America, even in Europe, the big Heather Reisman-style generic bookstores have taken over, but notwithstanding that, it seems to me that every time I'm in one, there's one area dedicated to books of local interest that are regional, by local authors, everything from cookbooks to photography books. So it boggles my mind to learn that in Prince Edward county there isn't an area that can accept local wines from that area when they're in low levels of production.

What is the history between you, as small, independent grape growers/winemakers, and the LCBO in terms of attempting to resolve it? What has their position been? It seems to me this could all be addressed so very quickly at that level in terms of getting this stuff on the shelf. It won't address the whole issue of broader distribution, but surely to give local winemakers access to those LCBOs so that I or my guest from wherever can access their wine without driving out in the country, because we've got the Niagara Escarpment guys telling us—we don't want that to happen either; it's true. What has been the relationship with LCBO? How do they respond to this?

Mr. Tawse: I sympathize with the LCBO. When we talk about our problems, I understand why the government says, "Don't bring me your problems, bring me your solutions, and your solutions better have more money for me." That makes sense to me. What I think that they don't look at—I have 12 employees. We're hiring. I buy my farm equipment from someone just outside of St. Catharines. I use all the products—our business is generating a lot of tax dollars that the government is not seeing in just that bottle of wine. How much of that output went back into the big ball that keeps rolling and rolling and generating more taxes in bringing tourists to the area, in paying salaries, in paying income taxes and all of the various taxes the government generates money with? There never seems to be any credit for the excess income that we're generating in that area.

The LCBO? Honestly, I'm very happy with the LCBO. I think they do a great job of distributing wines from around the world. It's just that we're not getting the—I don't want to say "tax break"—credit for the other income that we're bringing into Ontario, the other tax income, and we just cannot compete with these giant shops in Australia, Chile, Argentina. We just cannot compete—

Mr. Kormos: Is it unreasonable to suggest that different scales, different taxation levels be applied, depending upon the size of the winemaker, either their gross sales—somebody earlier this morning suggested about a million dollars gross sales—that there be brackets? Is that unreasonable to suggest? Would that be part of a solution?

Mr. Johnston: I think that could be part of the solution. I think the VQA stores can be part of it. I think managers being able to order our stuff directly so they don't have to go through the warehousing system would be another way. There are some very low shelves, if you look in the LCBO these days, that are empty. I think some of us would be happy even to get in there on some kind of a rotational basis with that kind of differentiated tax base.

I agree totally with Moray. There are two things: As I explained to the treasurer when he was out the other day, I will make much more money from the economic development spin that's out there than they will by just expanding the revenues of the LCBO, whatever that means in the end. I wish somebody would come and actually do a study of what the impact has been of the whole branch of new wineries that have developed out of Niagara and of, say, what's happened in Prince Edward county, going from a depressed area to an "it" place in the course of about 10 years. I think if they did that, the government would be very enthused by the model and the kind of revenue generation and prosperity that has developed.

The Vice-Chair: Thank you very much.

McPHAIL LAW OFFICE

The Vice-Chair: I now invite McPhail Law Office to come forward. Welcome.

Mr. Ian McPhail: Thank you, Mr. Chairman. My name is Ian McPhail. Honourable members, I would like to first thank you for the opportunity of allowing me to make a submission on this bill.

I served as chair of the alcohol and gaming commission for the years 2000 and 2001. During that time, I gained an appreciation of our wineries and their importance to Ontario. I learned how wine production is a rapidly growing part of our economy. I learned how, to many people, the opportunity of developing their own winery was the culmination of a lifelong dream. The cost of setting up a new winery is substantial. It takes several years before a winery is able to produce and sell its product. Even so, every few weeks brought a new application for a winery licence.

Some years ago, many of us served Ontario wines out of a sense of duty. Now, people would tell me how good

so many of Ontario's wines were and how they compared favourably to imports. Ontario now has an extensive wine belt, as honourable members have heard, in the Niagara Peninsula, and growing production in Essex and Prince Edward counties. I was able to speak with many of the vintners and learned how we in Ontario were developing not one, but two new industries. In addition to the sale of wine, our enterprising vintners were setting up tasting rooms and restaurants, ranging from the simple to the five-star. This gave rise to a whole new industry of agri-tourism. Some vintners have told me that their profit from agri-tourism exceeded their profit from the sale of wine.

1730

With all this good news, I discovered that only one third of the wine sold in Ontario was domestically produced. I learned too that many Ontarians still did not appreciate the good quality of so many of our Ontario wines. Our people are producing good wines, but customers generally aren't able to learn about them. In most cases, they are unable to get access to them. We need a practical solution to build shelves to stock these Ontario products in a way that is more convenient for consumers.

I learned that the only way consumers could buy most Ontario wines was to travel to the winery itself. The Liquor Control Board of Ontario has attractive stores and an efficient province-wide distribution system. However, space limitations and low production volumes of many varieties prevent it from listing the vast majority of Ontario wines.

It's true that each winery is allowed an off-site location, but most are too small to make that viable. Some more established wineries are allowed a number of off-site locations, such as kiosks in grocery stores, but most are not.

What we can conclude is that Ontario's vintners produce some superior products and could produce considerably more. We can also recognize that there exists a gap in the distribution system between producers and consumers.

Bearing these facts in mind, what should our goals be? I believe that these can be summed up as follows: economic growth and prosperity for Ontario; consumer choice and accessibility; import replacement and export promotion; improved reputation of Ontario wines; and greater tax revenue.

Licensing new VQA stores would allow wineries to band together to distribute their products in areas other than their physical locations. This would give Ontarians access to wines that they otherwise would likely never see. By providing greater choice, Ontarians could compare these Ontario products with imports. It is unlikely that this would have any material impact on LCBO sales, as overwhelmingly the wines which would be sold at VQA stores are not available at LCBO outlets. Increased sales volumes for Ontario wineries would enable the establishment of new facilities and expansion of existing facilities. A stronger home base would enable those wineries which were interested to pursue export markets. All of this would mean more jobs here in Ontario and greater tax revenue for the Ontario government.

In light of these benefits, why have we not opened the channels of distribution long before? There has been concern about the impact of the North American free trade agreement. This may be a problem, but surely the onus should be on those alleging a problem to make their case. When I served as chair, I was advised by the public service that there was a NAFTA argument against a more open distribution system. When I dug into it, I was unable to discover just what the argument was. I then moved to another tribunal and was unable to pursue the matter. I am not aware of any legal opinion on this subject which would show that properly established VQA stores would contravene the free trade agreement. Indeed, I have been advised that VQA stores can be established in a manner which is consistent with the provisions of the free trade agreement, but that is a matter for the trade law experts of which I am not one.

Honourable members, you are frequently asked to spend money to improve our economy and to benefit the people of Ontario. Here is an opportunity to remedy a constricting distribution bottleneck which is hurting an important Ontario industry, is costing jobs and is reducing tax revenue. By taking action, we can benefit two important sectors of our economy: agriculture, in the form of wineries, and tourism. And we can do this at no cost to the taxpayers of Ontario.

I have spoken here today with the benefit of my experience as a former chair of the alcohol and gaming commission. I would like to say a further word as a private citizen.

As members of the Legislative Assembly, you are called on to make many decisions. This is one that would enable our people to explore and enjoy many fine Ontario wines. Simply put, it would add to the enjoyment and quality of life here in Ontario. I urge you to support this bill and thank you for the opportunity of speaking to you.

The Vice-Chair: Thank you, Mr. McPhail.

Mr. Hudak?

Mr. Hudak: Ian, a fantastic presentation. I appreciate your consideration, given your experience at the AGCO; as well, you work on the environmental review tribunal. You'd be interested to know that earlier on we heard from the NEC, and we've also had a submission from COPE endorsing the VQA bill because it also has an environmentally friendly aspect to it by taking pressure off the escarpment.

Mr. McPhail: Exactly, because that has always been a factor. Unreasonably large facilities could have a detrimental environmental effect.

Mr. Hudak: I appreciate your points on trade issues. You had asked around, as chair of the AGCO, for legal opinion. We've done an FOI for a legal opinion and had responses from the LCBO and two ministries saying that they don't have one.

Mr. McPhail: That's what I gathered when I was there.

Mr. Hudak: I do recognize that, as we've heard, some government members do have concerns in that respect,

but I think then the answer is, "Well, what do you do about it? How can you amend the bill or improve the bill to address those concerns?"

Also, we heard a discussion that Mr. Kormos and I had with Professor Gastle with respect to, even if it were found, what would the actual remedy be and how harmful would that be at the end of the day, as opposed to an Armageddon proposal as has been proposed by some competitors of the Ontario wine industry?

I've blabbed on a little bit there. What are your thoughts in terms of how to address this trade issue in light of the need for better market access for the VQA wines?

Mr. McPhail: Clearly, I think that before taking action, the government would want to have a proper legal study of this done. Having said that, I also point out that where we have a situation where we've got a distribution bottleneck, we're shooting ourselves in the foot. We're preventing a dynamic industry from growing. So surely, as I mentioned, the onus should be on those people saying we can't do it. Other countries do it. The United States does it. Many states in the United States do exactly this. I'm not aware that Canada has ever objected to the American practice.

Mr. Hudak: As far as we know, no. It continues in California, in Pennsylvania, New York; in Canada, in British Columbia.

Mr. McPhail: Absolutely.

The Vice-Chair: Mr. Kormos.

Mr. Kormos: I want you to know, as I've told others, that I support the proposition. To me, though, it's imperative that these operations be operated by the LCBO and staffed by their workers. I think the LCBO has huge revenues that are important to the government but that also should be utilized to ensure that small wineries, this growing industry, is very much an Ontario industry. We began here in the committee talking about how it's becoming part of Ontario's culture. I think there's sufficient revenue within LCBO for them to ensure that those vintners have their products marketed in a fair way, either through the existing LCBO system or—and I didn't have a chance to ask the professor; I would have loved to—if it were approached as a tourist promotion. In other words, you're marketing the wine as a part of the promotion of the whole agri-tourism industry. It seems to me that that would also be a way that one would avoid infractions of various trade agreements. Surely the province has the capacity to promote itself, and if you're promoting Ontario agri-tourism, you're not going to be using product from Germany or France or California. So I think there is a variety of ways of doing it, and I appreciate you adding your voice to it.

I just hope the government doesn't send this bill into the legislative black hole, as it has the capacity to do, because really, the bill isn't Mr. Hudak's any more. The bill is now, in effect, a government bill. It's the government that has to call it. Mr. Hudak has no more control over this bill. It has, based on the suggestions of some Speakers' rulings, almost become a government bill, because Mr. Hudak can no longer control its course. He can't call it for third reading. Only the government can call it for third reading. Only the government can make sure that it receives more thorough consideration in committee, and I think the bill deserves that. Only the government can ensure that the bill is considered clause-by-clause in committee so that amendments are made after we've had, perhaps, conversations with Andy Brant, amongst others. I know these government members have been very supportive during the course of small winemakers today. I'm calling on them, and I know they will come through. I know these four people. They will come through. Even if it means telling the Premier's office to go pound salt, they'll come through for the small winemakers.

Mr. McPhail: Mr. Kormos, if you can solve the shelf space problem, whether its an LCBO facility or a private facility, you can eliminate this bottleneck.

1740

The Vice-Chair: Ms. Mossop.

Ms. Mossop: I'm going to give one remark before I pass it to my colleague here. The former chair of the gaming commission can put his money on the government to make sure that we solve this problem. Somehow, we're going to get this sorted out.

Mr. McPhail: Unfortunately, when I was appointed, I was told that I wasn't allowed to gamble in Ontario casinos.

Ms. Mossop: You would have had a windfall.

The Vice-Chair: Mr. Craitor.

Mr. Craitor: I'd like to get your opinion on a couple of things. I don't have it with me, but I have an e-mail that I just looked at. I think all the members have it. It's from a constituent in West Lincoln who was opposed to it. They were opposed to it as a taxpayer, and they were simply saying, "I don't want you to spend any more of my money on this type of project." What I wanted to ask you is, and it kind of falls in line with what my colleague Peter Kormos was saying, if the bill goes ahead—let's just go on the supposition that it goes ahead—first, who's going to run the VQA stores? Who do you see, the LCBO, LCBO workers? That's one. Who pays the cost to open up the stores, to maintain them and so on? Is that done through the government, through taxpayers? Is that the system you see going forward with this?

Mr. McPhail: I think you could do it in either of two ways, and I don't think either way would require the spending of any government money. You could have the LCBO establish special stores—not space at existing stores, because there isn't the space. A small winery might produce 10, 15, 20 varieties of wine. Most don't have any listings in the LCBO, so they can't do it. So you could have the LCBO establish special stores. One of the previous deputants made the suggestion of having these outlets in places such as the Byward market in Ottawa or the St. Lawrence market here in Toronto. Or you could have groups of smaller, medium-sized wineries get together in a voluntary, co-operative effort to set up stores.

Mr. Craitor: Private sector.

Mr. McPhail: That's right. You could do both.

The Vice-Chair: Thank you very much, Mr. McPhail.

MURDOCH MARTYN

The Vice-Chair: The next deputant is Murdoch Martyn. Please come forward. Welcome. You have up to 10 minutes.

Mr. Murdoch Martyn: Thank you. I anticipate being a lot shorter, Mr. Chair and honourable members, because I had originally prepared for this afternoon on the basis that the collaborative effort that I had done with Dr. Gastle was being incorporated into my presentation, because Dr. Gastle was not going to be able to attend due to teaching obligations at Osgoode Hall. That being said, since he has already presented, I won't go over what he already said. I will vacate my time to the next presenter, if there are any—unless I can add anything.

The Vice-Chair: There will be questions if there's time left after your presentation.

Mr. Martyn: Really, my presentation was going to be what Dr. Gastle has already said, because we worked together on whether or not this bill would run counter to Canada's trade obligations with WTO, NAFTA and our other free trade partners.

Mr. Hudak: Maybe, Chair, for the committee's benefit Mr. Martyn could describe his own professional background.

Mr. Martyn: Certainly. My name is Murdoch Martyn. I have practised law in Ontario since 1996, after getting my law degree from Queen's University. I also have my master's degree in law from Osgoode Hall in the area of international trade and competition law, with my thesis work being done on NAFTA and its dispute settlement procedures. Since 1996, I have practised in complex litigation, and I currently advise both domestic and international clients on trade issues.

The Vice-Chair: Thank you very much. I'll start with Mr. Kormos for comments and questions.

Mr. Kormos: I suppose the thing I've been interested in is that obviously Ontario can promote tourism within the province. I mean, it just can. Maybe you're going to tell me I'm wrong, but to me it just can. If the Ministry of Tourism went into a partnership with the LCBO and set up displays in very strategic locations and marketed Ontario wine product as part of a promotion of agri-tourism, and it was clear that that was part and parcel of its purpose, does that in any way, shape or form take away from the structure that your colleague the professor considered when he wrote his opinion that he talked about earlier today?

Mr. Martyn: Does it?

Mr. Kormos: Yes.

Mr. Martyn: It could. Of course, you'll never know the final answer until someone decides one way or the other to challenge what has been done.

Mr. Kormos: Here's the bill. You have bare bones as it is. Are there ways of moving forward in terms of structure so that you litigate-proof it, you protect it, as much as it could be from allegations of contravention of trade agreements?

Mr. Martyn: Further efforts could be made. However, ultimately it will always be challenged as, "Really you've just cloaked a trade measure under tourism, and you're still in violation of the spirit of the obligations."

Mr. Kormos: I know nothing about this sort of law. Is there anything more you can say about the extent of damages or the type of award that a tribunal would give? Part of me says that maybe you would end up with the old British ha'penny in terms of there being a violation, but no real damage being proven by anyone.

Mr. Martyn: No. If one were to challenge the bill, or the law if this were passed into law, you would have to prove your damages. It's not like libel and slander law, where damages are presumed; reputation has been damaged. You would have to establish what market damages you have suffered by not being allowed into the Ontario market through VQA-type stores, which requires engaging economic experts to look at how things are done up here and how much they might have lost, and coming up with a figure.

Mr. Kormos: The reason I ask that is because Mr. Richard Johnston and others like him say, "We don't want to export. We don't make enough product to export. We want to sell it in Ontario." I'm presuming then that their American counterparts—and I'm sure there are American counterparts like that—have no interest in exporting, because their production is so little.

Mr. Martyn: Certainly the cost of sending wine from California or the Chilean equivalent of a VQA to Ontario might be prohibitive.

Mr. Kormos: And you throw in a healthy bottle return program, requiring them to be responsible for their bottles, huh?

Mr. Martyn: Ontario already had that problem with its beer cans in the 1980s.

Mr. Kormos: I know, but I like that one.

The Vice-Chair: The government.

Ms. Mossop: Just to clarify, what we heard earlier was that this bill, as it stands right now, is not trade legal—

Mr. Martyn: Probably not. It could use some improvements.

Ms. Mossop: —and that, to improve it, you actually wouldn't have VQA stores; you would have small boutique winery stores that would take into account imports as well. So it wouldn't be a VQA store; it would be a boutique store of small foreign and domestic wineries.

Mr. Martyn: Correct.

Ms. Mossop: OK. We've heard today, from a couple of people this morning, that we're just too timid about these things in Ontario, and maybe even in Canada. "NAFTA, GATT, WTO be damned; let's just do it. Let's just have VQA stores. Let's just go for it and see what happens." What do you think of that?

Mr. Martyn: I would always approach free trade under the rubric of good faith. We expect good faith from our trading partners, and it would be fair to expect that they would look to us to have good faith as well. It's not always the big, bad Americans or the Europeans on free trade; we also deal with Chile and Costa Rica under free trade, and in some cases Canada can be a bully too. It

would be nice, though, if we have a reputation of being in good faith.

1750

Ms. Mossop: We did hear concerns also from Spirits Canada and others about retaliation. They seemed to really believe that there was a valid fear of retaliation to their industry, potentially, if we tried a VQA or something that was trade illegal.

Mr. Martyn: If something is trade illegal and ultimately an appellate tribunal under NAFTA or WTO says, "Canada, you're in breach of this law, and we're going to give the USA $40 million worth of tariff retaliation that they can impose upon your products," it really could be any product that the Americans choose. It wouldn't necessarily be distilled spirits.

Ms. Mossop: Not necessarily wine for wine. It could be spirits or something else.

Mr. Martyn: It could be softwood lumber.

Ms. Mossop: OK. Now, let's get to Mr. Kormos over here on promoting Ontario. Is there a vehicle, a promoting Ontario umbrella, we could come up with where we could lump in our food, our wine, our music, our literature, everything that's fabulous about our Ontario culture, and promote it?

Mr. Martyn: It's a possibility.

Ms. Mossop: Without retaliation?

Mr. Martyn: Probably.

The Vice-Chair: Mr. Hudak.

Mr. Hudak: Mr. Martyn, thank you very much for the presentation and being here and responding to questions. I appreciate the work that you've done, obviously, in working through this.

Earlier there was a debate on trade legality, then there was a subsequent debate about showing damages and then there was a debate after that about remedies. We've requested legal opinions from the government from two ministries and the LCBO, which says they don't have a legal opinion. The new government services ministry says they have a memo that responds to our request but it's privileged, so the committee won't necessarily see it.

What would be entirely helpful—and I know some staff are here too—is to put those considerable resources to bear in finding ways to ensure that we can do a concept like VQA stores while meeting our trade obligations or, secondly, evaluating the risk and considering what damages would actually occur. We were criticized and cautioned by various groups about doing agency stores because they would cannibalize the LCBO, and the agency stores have been a success. In fact, sales have gone up both at the agency stores and at their home LCBO stores. Similarly, we heard that if direct delivery were allowed, it would cannibalize LCBO stores. In fact, LCBO sales of imported wines have gone up substantially in that period of time. I even find it curious as to what kind of damage could be demonstrated if you had a small number of VQA stores.

Mr. Martyn: If I might just make a historical note, previously Ontario had a bit of a bad reputation in international trade for the efforts that it took to protect particularly the beer and wine industry in the 1980s. I'm not urging you to approach this on the basis of, "Well, we should just slam back because Canada has been slammed before." I do think that with changes, this bill would be trade compliant and would be done in good faith.

Mr. Hudak: How would it look, then, if you gave us some advice on an amendment to the bill to make it trade compliant, in your opinion? What would these stores actually look like, and how would they help out the small VQA producers whom we heard passionate presentations from this morning?

Mr. Martyn: It would help out the local producers who haven't had a chance to list with the LCBO before, either because they're too far away or it's just too expensive or the LCBO doesn't think the wine will sell in their stores.

The Vice-Chair: Thank you very much, Mr. Martyn.

GURTH PRETTY

The Vice-Chair: The last deputant today is Gurth Pretty. Welcome.

Mr. Gurth Pretty: Thank you very much for inviting me to come and speak. I'll try and keep things simple. I'm a professional chef, as well as a writer and an avid promoter of a new term, "culinary tourism," more so than "agritourism," which almost go hand in hand. In culinary tourism, we promote more than just agriculture but the entire experience.

I presently sit on the cuisine subcommittee of the Canadian Tourism Commission, as well as on the Ontario culinary tourism advisory committee. Just to ask a question to you: Could we put it all under an umbrella program? Actually, on October 12, there will be an official launch of the culinary tourism strategy done by the Minister of Tourism. I plan to be there and to find out finally what is happening, after almost a year and a half worth of work on this culinary tourism strategy program.

The way I see things, being a chef and a writer, is that if we have special stores, VQA stores, in Ontario, it will increase availability of products. It will increase greater understanding of product as well. A lot of people are wondering, "What is Ontario product?" We still have in our minds, unfortunately, Baby Duck from the 1970s. We know there's a lot better product out there. We've gone a long way.

Through greater understanding of the product, there will be increased sales. Ontarians are going to want to be purchasing our own wine because we've experienced it and we know it's good. Through those increased sales, there will be increased revenue to local wineries, therefore creating increased employment, increased taxes. The whole thing of this circle is that it increases pride that we've got amazing food and amazing beverages and wine here in the province. So when we travel abroad, we're going to say to people, "Boy, that Mommessin from Bordeaux reminds me a lot of Dan Lenko's wine down in Beamsville." Suddenly these French people, who are starting to hear about Ontario wine, say, "Actually, I'm planning to go to Ontario next summer. Why don't I go to Niagara or Prince Edward county or Essex

county and experience that?"—and stay even longer in the hotels and the inns, and eat in the restaurants, therefore creating more culinary tourism experiences for our increasing trade.

From the other discussions I was hearing, "Well, who would incur the cost of establishing these stores?" I don't know if anyone has suggested considering maybe the Wine Council of Ontario, trying to see within their own members if they'd be interested in doing something like that.

There is definitely a much greater interest in Ontario wine and products. Just recently—actually, this would have been about 10 days ago—Vintages came out with a copy of their magazine, "Discovering the globe's best varieties right here in Ontario." They are showing the public, "Hey, the LCBO is trying to carry more wine." This book, A Pocket Guide to Ontario Wines, Wineries, Vineyards and Vines, is about to be released. Being a food writer, I do get pre-book launches. This book, written by wine writer Konrad Ejbich, who is based here in Toronto, will now be available on the market as well.

Having more speciality stores promoting and selling VQA products in greater locations can only make it better for everyone within the industry; not just the wine industry but the entire hospitality industry as well.

I just did some quick research, and I gave you my little fact sheet. There are 65 commercial wineries and 15 fruit wineries in the province alone. When I went to Thirty Bench years ago, their products weren't available at the LCBO. What happens if you don't live around Niagara but you've heard about the wine? Will they ship it out to you, to people in Ottawa or people in Thunder Bay? I don't know.

With regard to your question about how we could promote the wineries or culinary tourism, do it through the OTMP—I'm trying to remember what it stands for—the Ontario tourism marketing partnership program, getting more of the word out to our domestic market but also to the international market. I know that a challenge I've had myself, as a food writer, is how to get articles about Ontario products into our own local newspapers. It's very hard, because we still don't think we have anything good, but there are amazing products out there. I'm seeing heads nodding. It's true.

1800

As I said, I just wanted to keep it simple from my notes. In 2004, there were 156,000 related businesses involved in the tourism industry and 486,000 people employed, and the tourism industry generated $21.8 billion in revenue. If having more specialty stores increases the opportunities for tourism, that's even better for us as a whole. Thank you.

Are there any questions? It's getting close to suppertime. I'm sure everyone's hungry and wants me to go home and cook.

Ms. Mossop: Did you bring anything?

Mr. Pretty: No, not today. I am writing a book on Canadian cheeses, so I've got a lot of cheese at home right now.

Ms. Mossop: Thank you very much for your presentation and for all your work on this. As you can tell, we're all wrestling and trying to come up with a way of honouring the intent of the member's bill and making sure we can do it without causing undue pain elsewhere in our industry or society, or without causing an unnecessary dustup somewhere.

One of the things that has been mentioned is to see if we can potentially do some more promotion through Vintages, to potentially have more shelf space for our VQA wines in Vintages, because there is a credibility factor there, and to make sure that those staff are really trained in talking about our wines. Another is that there are some existing licences, 290 of them, for VQA stores, which are in the hands of a few wineries right now, and how we might be able to share those existing licences among a larger number of wineries. And the "promote Ontario" piece—we're all big on that one. I take it you've been involved in some discussions around that. Do you see those three pieces as being helpful?

Mr. Pretty: With regard to having greater shelf space for wines at Vintages, until recently, I was scared to go into Vintages. The reason is that when I think of Vintages, I think it's a lot more expensive. So even though the quality is better in Vintages than on the general listing, on average—sometimes you can be wonderfully surprised—I think the majority of Ontarians think Vintages is more expensive. Meanwhile, I know some great wines that are $11, and they're not in Vintages. So would the public know that?

How well trained are staff at the LCBO? The LCBO's purpose—I don't know if there's anybody here from the LCBO; I know Michael Fagan's not here—is to generate as much revenue as possible. Is it their goal to promote Ontario wines? Not really. Their goal is, "Hey, let's sell as much as possible." I don't know if within the LCBO's mandate we can say, "Hey, come on. You should be trying to promote more Ontario wines," while at a specialty store, where they specialize only in Ontario products, those staff members should be very knowledgeable. There are 15,000 products for sale at the LCBO, and it's impossible for someone to know them all.

Ms. Mossop: But as you've heard, there are trade issues around that.

Mr. Pretty: But I don't understand why, because if the LCBO continues to purchase international products to sell within their own stores, we're still giving opportunity for products to be sold. It's not as if we're saying, "Let's close everything. We can only sell Ontario products in all of our stores."

Ms. Mossop: But it would be violating NAFTA, and you heard the legal opinion around that. That's what we're wrestling with. "Should" and "is" is where we are. "Should"—we're all there. Reality is what we're trying to wrestle with here, and come up with the best.

The Vice-Chair: Thank you. Would you like to briefly answer the question?

Mr. Pretty: I was just going to answer the last question. I'd say damn the torpedoes and full steam ahead.

The Americans keep slapping back in our face with regard to softwood lumber. Even though the tribunal's been on our side how many times—three or four times—they're still saying, "Oh, come on, let's keep on negotiating."

The Vice-Chair: Mr. Hudak.

Mr. Hudak: Part of the argument we heard this morning in a passionate presentation was, "Why are we always the boy scouts?"

Mr. Kormos: What do you have against the Boy Scouts?

Mr. Hudak: I was a Boy Scout for a little while. How long could you last?

Back to the point at hand, the reality is, is there currently a fair shake for our small VQA producers? A Ministry of Agriculture and Food report talked about the huge subsidies to EU wines. The newest farm bill coming out of the States has some major subsidies for American wines to get into foreign markets like our own. I don't know if we need to necessarily sit back and take that.

VQA wine sales in 2004, by volume, shrank about 8%, 7.9%. They shrank 2.7% in 2005. This is a concern. You can make incremental changes at the LCBO—they should continue to do so—but as long as you keep the LCBO under the whip to maximize revenue, it simply is not going to work for our small producers who can't meet those volumes and can't buy into the big advertising programs.

Mr. Pretty: I even spoke to Michael Fagan, who sits with me on the Ontario culinary tourism advisory committee, asking if there was any chance, any way that the LCBO might be able to help support culinary tourism. He said, "It's not within our mandate. It's not our job to be promoting Ontario; it's our job to be selling alcohol."

The Vice-Chair: Mr. Kormos.

Mr. Kormos: I guess I'm a bigger fan of the LCBO than some of the others at the table. If that's not their mandate, then change their mandate. Take a look at some of the things LCBO has done. Look at the potential of that publicly owned liquor wholesaler and retailer. Take Summerhill station, which I think is one of the jewels of the LCBO stores. When tourists are visiting, I take them to the Summerhill station to do a little tasting, shop at the Five Thieves on the corner there and go home. The LCBO clearly can be a vehicle to rehabilitate and preserve historic buildings, not just in Toronto but in small-town Ontario as well, and use them for liquor stores as a way for the responsible distribution of liquor.

The information we got from the two lawyers today—a professor and a lawyer—was probably the most valuable, because we didn't have to pay for it. We're grateful, because we were grappling with those sorts of questions. It seems clear that maybe the LCBO has to get direction to set up yet another stream of retailing for the small vintner. Based upon what the lawyers have told us so far, as long as the rules are the same across the board—in other words, if you were smaller than $1 million a year in sales, you could have access to the store. The reality is that a US vintner with low production has no interest in selling their wine in Ontario. So it seems to me you would create a scenario that would be in total compliance with all the trade agreements, because you're treating every supplier the same, yet it would have the natural impact of accommodating the small wine producers who can't jump the hurdles to get on to mainstream LCBO shelves.

I don't want to dismiss the capacity of the LCBO to be very much a part of the solution. They have huge resources, huge talents. I'm going to praise their workforce, the workers in those stores, because my experience is that they do know a heck of a lot about their product, certainly more than they knew when I was 18 years old, or 19 or 20, whatever. It's a totally, remarkably changed world. I think we're missing the boat by not including the LCBO in terms of addressing these problems and making them sit at the table and get with the needs of these small vintners.

The Vice-Chair: Would you like to briefly respond?

Mr. Pretty: Sure, very briefly. By having the LCBO really participating and then all of the Ontario wineries participating, we'll get into wonderful publications like this. But then also the LCBO does charge for any winery to participate on their shelves. They have to pay an extra advertising fee to get into these publications. We are still fortunate today that Food and Drink magazine is free.

Mr. Kormos: Are you saying wineries pay a fee to get promoted in that Food and Drink magazine?

Mr. Hudak: Yes.

Mr. Pretty: All companies that participate in Food and Drink, as far as I know, do pay either advertising fees or something to be in Food and Drink magazine. To get on the shelves, they have to pay to get into Food and Drink, as far as I know.

Mr. Kormos: In some circles that wouldn't be considered very kosher.

The Vice-Chair: Members, we have received all the deputations scheduled for today. The committee stands adjourned—

Mr. Hudak: Chair, we've had some very good debate and suggestions today and a lot of interest from all members of the committee. I'm just wondering when the next regular meeting date of the committee is going to be.

The Vice-Chair: The clerk has advised me that when the House returns, the meetings will be held on Wednesday morning.

Mr. Hudak: Which would be October—

Mr. Kormos: The 19th. The 11th is Tuesday. The 19th would be the first real day. The 12th is going to be the throne speech.

Mr. Hudak: Given that the next scheduled meeting for the committee would be Wednesday, October 19, I move we adjourn until Wednesday, October 19.

The Vice-Chair: There is other business to conduct, so actually this committee stands adjourned until 9:30 a.m. tomorrow, September 28, 2005, in committee room 1, on a separate bill.

The committee adjourned at 1811.

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Chair / Présidente
Ms. Marilyn Churley (Toronto–Danforth ND)

Vice-Chair / Vice-Président
Mr. Tony C. Wong (Markham L)

Mr. Gilles Bisson (Timmins–James Bay / Timmins–Baie James ND)
Ms. Marilyn Churley (Toronto–Danforth ND)
Mr. Kim Craitor (Niagara Falls L)
Mr. Kuldip Kular (Bramalea–Gore–Malton–Springdale L)
Mr. Gerry Martiniuk (Cambridge PC)
Mr. Bill Murdoch (Bruce–Grey–Owen Sound PC)
Mr. Khalil Ramal (London–Fanshawe L)
Mrs. Maria Van Bommel (Lambton–Kent–Middlesex L)
Mr. Tony C. Wong (Markham L)

Substitutions / Membres remplaçants
Mr. Tim Hudak (Erie–Lincoln PC)
Mr. Peter Kormos (Niagara Centre / Niagara-Centre ND)
Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Aldershot L)
Ms. Jennifer F. Mossop (Stoney Creek L)

Clerk / Greffière
Ms. Tonia Grannum

Staff / Personnel
Ms. Elaine Campbell, research officer,
Research and Information Services

CONTENTS

Tuesday 27 September 2005

T-16

ISSN 1180-4319

Legislative Assembly
of Ontario

First Intersession, 38th Parliament

Assemblée législative
de l'Ontario

Première intersession, 38e législature

Official Report of Debates (Hansard)

Wednesday 28 September 2005

Journal des débats (Hansard)

Mercredi 28 septembre 2005

Standing committee on regulations and private bills

Comité permanent des règlements et des projets de loi d'intérêt privé

Chair: Marilyn Churley
Clerk: Tonia Grannum

Présidente : Marilyn Churley
Greffière : Tonia Grannum

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Copies of Hansard

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

Exemplaires du Journal

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Wednesday 28 September 2005

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Mercredi 28 septembre 2005

The committee met at 0932 in committee room 1.

HEALTH INSURANCE AMENDMENT ACT (SUPPLEMENTAL NEWBORN SCREENING), 2005

LOI DE 2005 MODIFIANT LA LOI SUR L'ASSURANCE-SANTE (DEPISTAGE COMPLEMENTAIRE DES NOUVEAU-NES)

Consideration of Bill 101, An Act to amend the Health Insurance Act / Projet de loi 101, Loi modifiant la Loi sur l'assurance-santé.

The Chair (Ms. Marilyn Churley): Good morning, everybody. I'm Marilyn Churley, Chair of the standing committee on regulations and private bills. I call the meeting to order.

We are here today to consider Bill 101, An Act to amend the Health Insurance Act. I'm going to start by asking the sponsor of the bill, Mr. John Baird, MPP, to make a presentation.

Mr. John R. Baird (Nepean–Carleton): Thank you very much, Madam Chair.

I want to thank all members of the committee for travelling—I look around the room, and I think we're all out-of-towners, so I appreciate all of you coming to Queen's Park when the House isn't sitting to consider input on this bill. It means a lot to me, and I know it means a lot to all the presenters who will be here today.

I wanted, at the outset, to make one very strong point with respect to this bill. I'm certainly not approaching this bill on a partisan basis. I think all of us, in all three political parties from every region of the province, want to see this issue addressed, irrespective of our political persuasion. It's in this sort of spirit that I'm presenting the bill today.

I first became interested in this issue more than a year ago, when I was visited by a constituent, Tammy Clark, whom we will hear from later today. Tammy had lost her infant daughter Jenna, a beautiful young girl, due to a condition that was not diagnosed at birth. Had they known about the condition, they might have been able to undertake various diets or other regimes that would hopefully have better protected Jenna.

As MPPs or political actors, we hear from a lot of people who come in really looking at self-interest, something they want that will benefit themselves. What I find so remarkable about Tammy is that she has no self-interest. Her advocacy, and the advocacy of so many people in this area, is on behalf of others, so that others won't go through the same tragedy, the same grief they've gone through. I find that to be something I have a lot of regard for.

When I began to look into this issue, I discovered, and want to put on the table, that this bill was initially tabled some time in 1999, near the end of the previous Parliament, by our colleague Dwight Duncan. What I have done is simply reintroduced his bill as a method to get this on the public policy discussion table, to get this on the agenda, but Dwight initially tabled this bill.

More than a year ago, I introduced Bill 101, and hearings were set in June for now. It's funny: When we set the hearings in June, there was a lot of interest among many people in the community across Ontario, but we've seen a real snowball of interest, not just from stakeholders, not just from the Ombudsman, but also, I'm pleased to note, from the Minister of Health. His ministry has also gotten involved in this issue in a much more substantive way.

As I understand it, Ontario was a real leader in newborn screening in the 1960s and 1970s. For a variety of reasons that I won't rehash, I think we've lost that leadership. We're now really near the bottom of the pack in Canada and the United States in terms of the number of conditions we screen for in Ontario. We've fallen behind.

I read with great interest the Ombudsman's report yesterday. Before he was Ombudsman, he lived in my riding of Nepean–Carleton. So we've seen two people from Nepean–Carleton being big advocates for this issue, and I don't take issue with much of what he said. What he really does is present a strong case, not just for the government but, I think, for the legislative branch as well, to focus on this issue and make sure that when we move forward, we get it right.

I very much appreciate—I would like to underscore this—the Minister of Health's recent work on this issue. When many of the stakeholders were having a press conference here in the spring, his staff certainly told me that was something that was on their radar screen and that they would be coming forward with a plan on this issue. I think his announcement is good news, and I'd like to acknowledge that publicly.

It might be a bit presumptuous, but I would suggest to all the members of the committee that our task today would really be to hear from stakeholders and reflect on what they have to say, and then look at the government's plan and ask, is it enough? Are we going to screen for enough conditions, diseases and whatnot? How could we recommend that it be done better operationally? Also, the timeline: The simple goal is, how do we see Ontario going from the bottom of the pack not just to joining the pack but regaining Ontario's leadership in this area, which is something we all want to do?

It's a fair issue, I think, to question that this is so complicated, so technical that the expertise is so limited. We're fortunate enough to have some people who work within a mile or two of this place, people in Ottawa and some people in various parts of the province who have some experience. There are also some people with a lot of experience in western Canada and in various parts of the United States. I'd like to see the government's plan, which I think it's safe to say is a good one. I think we can improve it—if we, as MPPs, can approach it from the perspective of what recommendations we might be able to give the minister on how he might make a good plan even better.

I think that too often we get mired in just backing up the plan. I can remember dealing with the Attorney General on the same-sex marriage legislation. We came forward with ideas on how it could be strengthened. He listened and made changes to the bill, which got it passed rather quickly and made it a better bill. I think it was better for the government, better for the opposition and better for the people of Ontario. I'm hoping we can take that same approach here today.

0940

I would want to underline a local issue: There is a significant amount of expertise at the Children's Hospital of Eastern Ontario. CHEO is located in the riding of Ottawa South and enjoys the active support of the local member in Ottawa South and, I think, the active support of all members in eastern Ontario. At some point I'd like to discuss how I think CHEO could play a strong role in this effort.

I see many people here: Judy, you're here from Hamilton; Maria is from southwestern Ontario; and Mr. Brownell is from eastern Ontario. So many services are regionalized, whether in Hamilton, London or Ottawa, but so many services are centred in Toronto. If there are rare and specific things, the expertise comes together in Toronto. Here's an example where geography doesn't really matter; it could really be headquartered anywhere. There are a number of researchers, clinicians and physicians at the Children's Hospital of Eastern Ontario who have expressed a real interest in CHEO perhaps being a centre of excellence for this screening. If the medical devices and equipment that are required too, so we have some redundancy in the system—CHEO would be an excellent place for this to be headquartered. That will be something I will perhaps raise at various points of the presentation.

Again, I want to thank all members for coming. Sorry, I missed another member from Hamilton and another member from London, who I know share my concern about children's health and its regionalization.

I'm looking forward to hearing from the presenters.

The Chair: Thank you, Mr. Baird. We'll now have five-minute statements from each of the other parties. We'll start with the government.

Mrs. Maria Van Bommel (Lambton–Kent–Middlesex): As government, we certainly recognize the need for newborn testing and the expansion of that program, and we're trying to move from worst to first. This is just the beginning of what we're doing. We're moving to become a leader in North America and in the world in this endeavour.

When I was reading the background, I found that it has been 27 years since anything had been done about this. That is a real concern for me as a mother and as the aunt of a young man who has PKU. This certainly has needed to be done, but the decisions we are making as a government have to be science-based.

We're moving, and we made the first step in our announcement of 19 new tests, but this is just the beginning. We are waiting for the advice of our advisory committee on newborn screening to give us more indications of the kinds of tests that need to be done. As I say, as a government, this is just the beginning and we are moving forward.

On September 7, the Minister of Health made an announcement that he was going to expand newborn screening and that 19 new tests for inherited metabolic disorders would be phased in for all newborns beginning in 2006. The new tests would fall under three categories: organic acid disorders, fatty acid oxidization disorders—and that includes the MCAD, which is mentioned in Bill 101—and amino acid disorders.

In addition to expansion of the testing, three new tandem mass spectrometry machines are being purchased to do these. We know that TMS machines have great capacity to do further testing, so we are waiting on the advice of the advisory committee to let us know how to proceed with that.

I certainly appreciate member Baird's recognition of the fact that Dwight Duncan brought this bill forward first and that he has been trying to move this. As a government, we are certainly happy to be able to say we are moving and have acted on that. The Ombudsman in his report has also said he appreciates the fact that we, as a government, are finally moving on these things.

I'm looking forward to hearing from our deputants as well. As a mother and a grandmother, I understand how critical these kinds of tests can be to the welfare and the future of our young children.

The Chair: I will now move on, if it's OK with Mr. Baird, to the third party response.

Ms. Andrea Horwath (Hamilton East): It's my pleasure to be here this morning representing the New Democratic Party at these hearings about newborn screening for inherited genetic disorders.

I think everybody would recognize that medical evidence shows very clearly that early screening makes a huge difference for children with many, many disorders, like sickle-cell anemia and PKU. In fact, infant screening can enable these children to lead very healthy lives by making sure that they get the right treatments to them in the very earliest stages of their young lives.

The Ontario Ombudsman, André Marin, has been mentioned already this morning because, of course, he released his report on this very issue late yesterday. It was interesting that the first person I met walking in this room was a gentleman named John Adams, and of course the first two words in the text of the Ombudsman's report are "John Adams."

I was reading through the report, and there is one very interesting quote that I thought I would raise, because I think it sets a tone for what this is all about today. It says here, "John Adams was 'bang on' in identifying the primary ingredient that has been missing in some government quarters for the past decade or more that parental participation would have supplied, namely, the personification of misery." It's that very misery that we want to make sure we eradicate through doing the right thing around infant screening in the province of Ontario.

I know that John spoke to the Ombudsman, and many others did as well, during the process of the investigations that led up to the report. He said that Ontario performs "like some Third World country" when it comes to newborn screening. That's a sad state of affairs, when in fact things were quite different a couple of decades ago in this province.

He said, "It is a matter about unnecessary illness, suffering and the death of real children," and that "'parents have a right to be impatient'" when it comes to Ontario providing the testing their children so desperately need.

Of course, in response to the growing public pressure, the McGuinty government has finally promised to increase the number of genetic disorders that it screens for. But as was noted by the Ombudsman in his report, we're far from the finish line, and it's certainly not a time to sit on our laurels. Until this week, the McGuinty government left sickle-cell anemia and thalassemia off its list, even though the US and Great Britain already have programs for universal screening that can be easily applied in the Ontario context. During Sickle Cell Awareness Month in Ontario, the McGuinty government refused to start screening for these conditions. Sickle-cell disorders are predominant in people of African, Caribbean, Mediterranean, Middle Eastern and South Asian descent. Given Ontario's diverse cultural makeup, a cultural makeup that we are always lauding and celebrating, the province should be implementing newborn screening for sickle-cell disorders right now.

The Ombudsman believes that political pressure from parents, doctors, opposition parties and advocacy groups has also helped to turn the tide in Ontario. So we should thank Mr. Baird, first of all, for introducing this bill, and of course all of you for all your hard work in making sure that this issue gets addressed. But we have to keep the pressure on and hold the government accountable for its promises.

The Ombudsman has found that this government and its ministries have a disturbing "'lack of leadership'" in this area and have abdicated their responsibility. They have "a general lack of courage to display 'an appropriate sense of urgency.'" All of these are direct phrases from the Ombudsman's report, which is in fact a harsh condemnation of the government's practice and a wake-up call for those of us that are fighting for change.

The Ombudsman reported that "in an October 12, 2004 ministry briefing note to the assistant deputy minister it was again noted that the failure to detect inherited metabolic diseases other than PKU and CH, results in 20-25 deaths annually," deaths that can be prevented if only we do the right thing.

I want to close by saying that we should all keep fighting so that kids at risk of inherited conditions are given the best possible chance for leading healthy lives.

The Chair: Thank you very much. Now we move back to the official opposition. Mr. Baird.

Mr. Baird: I'll think I'll just make one or two quick comments. I just want to thank both members for their comments, and I welcome the member for Lambton–Kent–Middlesex's comments about the government's desire to go from worst to first. I concur with her issue with respect to decisions having some basis in science. That is important.

I guess I'd also just underline something: I would hope that all the wisdom, and there are a lot of great folks at the Ministry of Health and there's a lot of expertise there, doesn't necessarily lie within the Ministry of Health. I think we as legislators can listen to the presentations that we hear today and perhaps challenge them. It's not a partisan issue, I don't think anyone is going to vote on this issue, but if we can make their plan better, I think everyone would acknowledge that there would be a really meaningful role for us as legislators.

0950

I think that too often it comes down to an acknowledgement, and it was just the same when we were in government, "Well, this is what the minister says. We'll just trust him." I know that the minister cares deeply about this issue, and I see some of the members of his staff are here. I know he would welcome our advice and suggestions if they are put forward in a constructive fashion.

I'd also just like to underline, as the Ombudsman did, the work of John Adams. Mr. Adams came to see me as health critic for the official opposition, which I was at the time, to push me on this issue. He was unaware that I'd already tabled a private member's bill on the issue, so his energy and enthusiasm toward this issue are to be acknowledged. I appreciate that, John. Thank you.

The Chair: Thank you very much, Mr. Baird.

CANADIAN ORGANIZATION FOR RARE DISORDERS

The Chair: We will now in fact move on to Mr. John Adams, who is our first presenter today. He is here representing the Canadian Organization for Rare Disorders.

Mr. Adams, you can take a seat. Please introduce yourselves. You have, as an organization, 20 minutes. If you want to leave time for questions, you're certainly free to do that, but you have a total of 20 minutes.

Mr. John Adams: Thank you very much. Joining me at the witness table today is Dr. Diane Wherrett, who is a senior endocrinologist in the Hospital for Sick Children. She was too busy in her clinical practice to make an appointment for her own time slot, so I've been happy to accommodate her in the cause of the endocrine disorders that are not yet part of the newborn screening expansion plan.

I am a passionate parent advocate for comprehensive newborn screening, and as of last night became the treasurer of the Canadian Organization for Rare Disorders. I just want to say let's make history together today, because this is the first public hearing ever in the province of Ontario into health screening of babies. Thank you, John Baird, PC MPP, for this bill and thank you, Dwight Duncan, Liberal MPP, for the original version in 2003. Thanks through you to all the House leaders, to all the parties, for making this hearing possible today.

I am the father of child with a rare genetic disorder. I am so thankful that my son was spared a lifetime of severe mental disability because Ontario screens all newborns for three disorders: hearing, congenital hypothyroidism, and my son's condition—phenylketonuria, or PKU. PKU is inherited, affecting about one baby in 15,000. Treatment is a special medical diet for life. My Ontario scholar is at class today in university. My kind of newborn screening is inclusive and checks a baby for deafness, which we have been doing since 2002.

Years ago, total strangers set up a universal public health system to safeguard my baby and all the other babies from preventable harm, harm from a disorder I knew nothing about. Like almost all parents, I had never heard of PKU until after my son was born and the condition was detected. Ontario's newborn screening program is 40 years old, and this important universal public health program has saved at least 1,400 babies from preventable lifetime harm.

Private members' public bills are crucial to newborn screening. Forty years ago, NDP leader Stephen Lewis introduced a bill to start newborn screening. Thank you, Stephen, for seeking and obtaining all-party support. Now I have praised every party at least twice. Mr. Lewis looked to innovation in other jurisdictions to keep Ontario babies healthy. He looked to the doctor and scientist in Buffalo, Bob Guthrie, who had a retarded son and who figured out how to screen babies for PKU. Stephen Lewis looked to the state of Massachusetts, the first jurisdiction to figure out how to screen every one of its newborns. It took Ontario less than two years back then to follow the example of Massachusetts. That was in 1965. Over the decades we lost our way, and governments of all three parties stopped adopting best practices in newborn screening learned by others. Now I've criticized all three parties.

Today, babies die or are damaged needlessly in Ontario because we fell so far behind. Today, Ontario is tied for last. I am heartened that the minister's spokesman here today said that the goal is "from worst to first." I am heartened, and I want to make that real and I want to make that happen fast.

Ontario does not yet have a simple brochure on newborn screening, such as is available in the United States. There is a paucity of information on the Ministry of Health Web site. There's an explanation for that. The special expertise earned by parents the hard way, living day and night with a child with a rare disorder, too frequently not properly diagnosed, has not been fully valued. Parents are the experts in the wasteful odyssey once a child starts to exhibit non-specific signs and symptoms before there is a diagnosis of a rare disorder not identified at birth. If you set out to design an expensive and ineffective health care system, you would start by waiting for a patient to go into crisis before trying to diagnose the problem; you would not spend a nickel or a dime on early detection, so that we can spend thousands of dollars on intensive and acute care later on. That is our newborn screening non-system today, except for the three disorders. It wastes taxpayers' money and it is child abuse caused by government neglect.

Why is early detection so important? There are about 7,000 different rare disorders, but newborn screening is a very small subset of those, where the condition is silent and the disorder shows no clear signs or symptoms while preventable but irreversible harm occurs.

I advocate comprehensive and inclusive newborn screening, which is, sadly, not yet planned, but I hope we have a commitment to do that. The plan makes a start with too few metabolic disorders, but its sin of omission overlooks life-threatening disorders of the endocrine and blood systems. I'm ashamed of the government plan that leaves out life-threatening congenital adrenal hyperplasia and the sickle-cell diseases.

At this point I'm going to ask Dr. Wherrett, an expert in endocrine disorders, to make some comments.

Dr. Diane Wherrett: I'm going to make some comments specifically about congenital adrenal hyperplasia, because that's one of the conditions that I care for. I also care for children with congenital hypothyroidism, which we do screen for in Ontario, and I can tell you about how successful that program is.

First, I'm going to tell you a little bit about what congenital adrenal hyperplasia is. It's an inherited condition caused by the lack of an enzyme involved in making two crucial body hormones, called cortisol and adolsterone. Those hormones help maintain blood pressure and the body's normal levels of sodium and potassium. It's a reasonably common disorder: about one

in 16,000 in populations similar to Ontario, so similar to some of the other conditions we're talking about.

What happens if you don't have these hormones is that a child will initially look perfectly healthy at birth; within the first few weeks of life will begin to feed poorly, lose weight, start to vomit and eventually develop complete collapse; come into an emergency room desperately sick, require admission to an intensive care unit, and hopefully will recover from this uneventfully; but in the meantime, this obviously has been a very sick infant.

We also know that children die without diagnosis. The reason we know is that this is a condition that happens 50-50 in boys and girls, but when you actually look at children who are diagnosed with the severe form of the condition, there are always more girls. I'll tell you a little bit later why it's easy to diagnose in girls and much harder in boys.

The good thing about this condition is that it's very easy to treat. We have replacement hormones that can be bought in any pharmacy that are inexpensive, the treatment works very well, and these children lead perfectly healthy lives once they're on good treatment. So it's not something where we can't make a difference. We can.

1000

The reason girls are diagnosed early is that when this enzyme is defective, we have a buildup of other products in the same pathway, which are male-type hormones. So when girls are born with this condition, often their genitalia look much more male. They're brought to medical attention because people examine a newborn and see that this girl's genitalia don't look like a typical girl's. In fact, sometimes this is so severe that girls are actually thought to be boys at birth, and this also can lead to a delayed diagnosis.

Why screen for this condition? As I've said, these babies look perfectly healthy at birth. They go home from the hospital as perfectly healthy newborns. What happens to those who come in in the usual way we diagnose these babies is that they deteriorate over the first few weeks of life. Usually by two to three weeks of age, they've developed vomiting, they've had multiple visits to their doctor and eventually they get so sick that they land in an emergency room. They have low levels of sodium and high levels of potassium, and as I've said, they require intensive care and a hospital stay of a number of days.

If you contrast that with what happens in Manitoba, in states in the United States, and in Europe and Japan, where screening is done, these babies are generally diagnosed by about seven days of age. They still have normal blood tests, normal levels of sodium and potassium. They can get their confirmatory blood work checked and get started on treatment, and ideally would not even need to be admitted to a hospital but actually just have an outpatient visit. There's a huge contrast in what would happen if we had screening versus what happens now.

The other reason to screen is that this is feasible. This is done around the world. Abnormal hormone levels can be found by two days of age. So you can start screening any time after two days of age, and we know that it usually takes two to three weeks for the illness to show up. So we do have the opportunity to do the test practically, get the test result back and get the baby treated before the baby gets sick. We know the technology exists around the world to do these tests. Unfortunately, it's not easily done by the tandem mass spec. technology that is already part of this proposal but would require an additional type of testing, but this is done and it's feasible.

I think those are the main points: We really can make a difference by diagnosing this early and preventing illness and by preventing boys who don't show any signs of the condition from dying without ever being diagnosed.

Mr. Adams: The government plan, as announced on September 7, needs some work. The plan would start slowly, increasing the number of disorders in March 2006—six months from now—to an eventual total of 21, plus hearing. It looks like Ontario is going to take until 2007 or 2008 to get to all 21 of the announced disorders. That slow meander into the future is unacceptable.

How many babies will die or be disabled needlessly between now and the March start-up of expansion or the eventual completion of the 21? It's too little, too late and too slow. Saskatchewan screens babies for 29; Quebec screens 90% of its babies for 28.

But the best practices today are not in Canada, just like Stephen Lewis pointed out in 1965. Few would think to look to the state of Mississippi for best practices in health care, but today a baby born in Mississippi is screened for 57 of these rare disorders. When will Ontario innovate and catch up with Mississippi in this field?

A baby born close to here, in Buffalo, today is screened for 44 conditions by the state of New York at no charge to the family. They added 33 conditions this year and plan to add more conditions next year.

Governor Arnold Schwarzenegger's health department screens 500,000 babies a year for 75 conditions in California and sends its overflow and tricky problems in blood disorders to a special hospital lab in Hamilton, Ontario. This fact is little known to Queen's Park policymakers.

There is a standard of care in this field, and it is in the three-year study by the American College of Medical Genetics. I have it here with me; it was published in April. Well-funded by the US government, they examined 84 rare disorders and recommended that 54 be included in comprehensive newborn screening, given the current state of knowledge. The report is only 329 pages long, and I'm happy to share it with you.

This report and its recommendations are endorsed by the American Academy of Pediatrics, the American College of Obstetricians and Gynecologists, the American College of Family Physicians, the US national association of genetic counsellors and, most importantly, by the US federal advisory committee on newborn screening. They have a national consensus. Mississippi was the first jurisdiction to adopt this approach, as Massachusetts was the breakthrough leader 42 years ago.

Not a single Canadian or Ontario medical organization has taken a public position on comprehensive newborn screening. We are out of step. Last night, the organization I represent, the Canadian Organization for Rare Disorders, unanimously adopted the following: "CORD urges all provinces and territories to implement, as soon as possible, comprehensive and inclusive newborn screening within each jurisdiction at the highest prevailing international standards." From worst to first, you might say.

The Ontario plan, as it is, is too slow in getting going. I advocate a quick-start strategy. It will take time, I acknowledge, to get up to speed in Ontario because we are so far behind. But for the sake of saving babies' lives and preventing lifelong damage, we can swallow our pride a little bit and buy the necessary services from outside for a few months as a transition measure until we can build up Ontario's capabilities. Babies will die or be harmed needlessly every week that slips by. It's a matter of conscience.

There are lab services available to handle all Ontario newborns for the full ACMG panel starting tomorrow, not in March, at a cost of no more than US$35 per child; that's what we're talking about. The government should really look at this with a sense of urgency.

The Ontario plan says its list of 21 disorders will identify one case in every 2,000 babies, but the American College of Medical Genetics plan says its list of 54 disorders will identify one case in every 800 babies. Ontario has about 130,000 births a year. The difference between the two plans is about 100 babies a year. That means two dead or damaged babies every week, while we fail to lead the rest of Canada.

There is no national strategy or process for newborn screening in Canada, and I hope in due course to work on the federal side of this with the chairman and the sponsor of the bill in their new positions in the House of Commons. There is a national process and a recommended strategy in the USA; there are no federal activities or funding for newborn screening in Canada. The word "screening" does not appear in the Canada Health Act. The government of Canada contributes not one penny to any province or territory for the cause of newborn screening. I will say that Carolyn Bennett is Canada's Minister of State. I and others have asked her to seriously consider becoming a national champion for newborn screening. I hope she does; she was the doctor who delivered my PKU son.

There are major federal activities and federal funding in the USA from the administration of George W. Bush. I participate in meetings of the US federal advisory committee on newborn screening. Because of my interest as a parent, the Office of Rare Diseases at the US National Institutes of Health has invited me to participate in an international effort to foster collaborations among researchers, health care providers, parents and lay advocates. Other governments welcome the active participation of parents in newborn screening; we don't. We don't have an office of rare diseases anywhere in Canada; we don't have a policy for orphan drugs and other treatments for rare disorders. We operate like a Third World country in this respect.

The process the government used to seek advice is flawed, and it lacks openness and accountability. That's one key reason why the results are not acceptable so far. You have a chance to fix that today. Give us an advisory and oversight process that is open and inclusive.

The health officials who make the administrative rules have lost sight of something. The babies don't belong to the government and they don't belong to the doctors. Parents are here today asking for a voice at the table, to participate as equals in giving advice and providing insight, oversight and feedback.

1010

I beg all political parties to work diligently together on this life-saving and brain-saving issue. This is a public health emergency. The gaps in newborn screening in Ontario mean we have a silent Walkerton tragedy repeated every year in terms of health, human costs and suffering.

Newborns are our most vulnerable population. Leave no baby behind today who can be saved by comprehensive and inclusive newborn screening. Cherish and protect every baby. Make us proud to live in Ontario. For God's sake, catch up to Mississippi. Thank you.

The Chair: Thank you very much, Mr. Adams and Dr. Wherrett; I hope I got your name right. We have literally about a minute left for questions. What I'm going to do is ask Mr. Baird in this round, if people are agreeable—

Mr. Baird: I have met with Mr. Adams and am in regular receipt of all his e-mails, so if there is a member of the committee who would like to ask, I'd certainly yield my time.

The Chair: Would anybody like to take the minute to ask a question? No. It means you must have been very succinct. Thank you very, very much for your presentation.

HEMOGLOBINOPATHY GROUP OF ONTARIO

The Chair: We now move on to—let's see if I get this pronunciation right—the Hemoglobinopathy Group of Ontario, McMaster Children's Hospital, Hamilton Health Sciences, and Dr. Isaac Odame. Doctor, if you could—you are a doctor?

Dr. Isaac Odame: I am a doctor.

The Chair: Please state your name for the record. You too have 20 minutes.

Dr. Odame: My name is Isaac Odame. I'm a pediatric hematologist/oncologist at McMaster Children's Hospital in Hamilton. I'm here representing the Hemoglobinopathy Group of Ontario, a group of professionals, doctors and nurses who treat patients with inherited blood disorders.

Before I introduce my topic and educate the committee about this disease, I just want to give you a bit of background as to why I think the process of advising the

government is flawed. If you look at the background to the current advisory committee, it was set up solely because of a crisis in the old PKU testing. The testing is antiquated, so antiquated that out of 10 positive results, nine are false. The need to change that technology was not actually on the government's initiative but because the company that provides the reagents is going out of business because, really, it's an antiquated technique and not many people are subscribing to those reagents.

So the timeline for the government's initiative was started because of a crisis; it wasn't because they perceived the need for a comprehensive program. Because of that, the committee that was supposed to advise the government was a very narrow committee. As Mr. John Adams has already outlined, you need an all-inclusive committee that has all the interest groups at the table, including parents and advocacy groups, so that you can have a comprehensive program. My preamble to this is that the advisory committee that the government is depending on at this moment I think lacks legitimacy to be able to provide comprehensive advice.

Having said that, the American College of Medical Genetics produced its list of disorders under these headings: (1) disorders of fatty acid metabolism, (2) disorders of organic acid metabolism, (3) disorders of amino acid metabolism, and (4) disorders called hemoglobinopathies. It is lamentable that when the government announced its expansion program, it dropped the hemoglobinopathies. That's what I'm going to talk about today.

What is sickle-cell disease? It is an inherited blood disorder seen mostly in people of African, Caribbean, Indian, Mediterranean and Middle Eastern descent. As you can see, it's a disease of people of ethnic minority. I'll make you aware that a recent caption in a leading newspaper said that ethnic minorities in the cities of Toronto and Vancouver would top 50% by the year 2013, so this is no longer a rare problem. The ethnic dimensions of immigration to this country reflect that these disorders are going to become even more important: 75% of new immigrants to Canada come from ethnic groups in which these globin disorders are prevalent.

There's a single mutation, a single change in the molecule or the protein called hemoglobin, which is really the protein that gives blood its red colour. The function of this protein is to carry oxygen from the lungs and deliver it to the tissues. What happens in sickle is that there is an alteration in the protein, and instead of the protein remaining a single unit to be able to carry out this function, it forms gels, and the gels distort the red cell from its normal doughnut shape to a sickle shape. This abnormal shape really leads to a blockage of the blood vessels, and as the small blood vessels are blocked, there's starvation of oxygen to the tissues. Eventually, every organ in the body is affected by this blood disorder: brain, lungs, heart, kidneys, bones and joints, liver, spleen, the eyes. Oxygen is the fuel that every single cell in the body needs to maintain viability.

This is the abnormal shape you see. A normal red cell should be a nice, rounded doughnut shape able to squeeze its way through the blood vessels and off-load the oxygen to the tissue. When it turns into that kind of shape, it is no longer able to do that, and that leads to blockage. This is where the name "sickle" came from. It describes the abnormal shape of the red cell, hence the name sickle-cell disease.

It was the first disorder in humanity in which the cause was attributed to a protein. That was as early as a few years after the Second World War that this discovery was made. Not only that; it was the first disease for which the genetic cause at a DNA level was identified. I want you to focus here. The building block for that unit in that protein is 146 amino acids. At position 6, what happens—you need the genetic blueprint; that gives the message. It's a G, an A and a G; that should produce this amino acid. What happens in this disorder is that instead of the A in the middle, you have a T, and that gives a message to make a different amino acid called valine. This one single mutation in a 146 block of protein causes all the havoc. It makes the cell unable to carry oxygen.

What is the history of newborn screening for this disorder? As early as the 1960s, doctors had realized that patients with this disorder have an increased susceptibility to infection, in particular one called pneumoccal septicemia. It's devastating in that the patient is ill for only a few hours before they die, usually less than 12 hours, with a case fatality of 35%. So the potential benefits of screening for the disorder were actually identified as early as the 1970s, but there was no evidence to really point doctors to the need for screening.

Another complication that these children have is that suddenly the blood pools in an organ called the spleen. So the blood is all pooled in the spleen, and the patient gets short of blood supply and goes into shock and heart failure. This can be so sudden: A child is well the night before and suddenly is gasping for breath.

It was not until 1986—somebody has mentioned science, and the Holy Grail of clinical science is a randomized, placebo-controlled clinical trial. That is, you run the trial, you don't assume you have the answers, and it's blind for the patients and the doctors; they all think they are taking the sample, but one half is taking a placebo and the other half is taking the drug. That's the Holy Grail of clinical science.

1020

This study, which was published in the prestigious New England Journal of Medicine in 1986, was a study randomizing children with less than three years with this disorder into two groups: One group received penicillin to prevent infection; the other group received a placebo. They were blinded, so you could not be biased. Of the penicillin group, two had an infection; whereas 13 had an infection in the placebo group. Not only that: Whereas there was no death in the group that took penicillin, three deaths occurred in the group that took the placebo. There was an 84% reduction in the incidence of infection. This study had to be terminated eight months early because it

was no longer ethical to continue the study; as you can see, deaths were occurring in the group that was taking the placebo.

This study was published, and soon after it was published, there was a National Institutes of Health consensus that developed a plan that newborns should be screened for sickle-cell diseases and other globin disorders.

Newborn screening, when linked with timely diagnostic testing, supplemented with parental education and comprehensive care, markedly reduces morbidity and mortality from sickle-cell disease in infancy.

It is so common. These disorders occur in 5% of the world's population: 1.92% will carry the sickle gene and another 1.6% will carry the thalassemia gene. All over the world, out of every 1,000 births, about 2.4 will have severe forms of these disorders. So they are not uncommon disorders at all. We talk about rare disorders; these are not rare disorders at all.

This is the staggering figure: Among people of black origin, one out of every 10 black Americans carries the gene. About 10% to 14% of people of Caribbean origin carry the gene. Of people of direct African descent, one in four carries the gene. The risk of sickle-cell disease in a person coming from Africa is one in 100. You hear figures being quoted of one in 15,000, one in 20,000. This is one in 100. If you are of African American origin, one in 400 people carries the severe form of the disease.

What about Ontario? Based on laboratory data, out of 100,000 births, 13.2 will carry this mutation, which means that in Ontario, using conservative estimates, up to 20, 25 children are born with sickle-cell disease every year. The prevalence of this disorder among a population of 100,000 would be about 6.4%, which means that we have over 1,000 patients today in Ontario with sickle-cell disease.

This has already been outlined, but I'm showing it in a visual form. Ontario was a leader in catching up with newborn screening. Soon after the introduction of newborn screening for PKU, Ontario was only two years behind. We caught up in 1965. For newborn screening for congenital hypothyroidism, which my eminent colleague talked about, Ontario was in within four years. Newborn screening for sickle-cell disease has been done in most jurisdictions in the United States and the UK between 1989 and 1992. What about Ontario? Not yet. We are decades behind. This is simply not acceptable.

This is not the fault of experts. This is not for lack of advice. The ministry's own advisory committee and the chairman of that committee—the eminent colleague who is here today and will be speaking later—advised the Ontario ministry at the time that congenital adrenal hyperplasia, which my colleague spoke about, and sickle-cell disease should be added to the screening panel. Thirteen years later we're still talking about it.

We talk about science. The science is there; the expertise is there; the advice has been given. It's one thing to get advice; it's another thing to implement it. This is where the government of Ontario has failed its people. That is really sad. If I were a doctor and if I failed my patients this way, my licence would be at stake, but it's OK if policy-makers ignore it. I think this is unacceptable.

The Agency for Health Care Policy and Research recommended universal screening. Therefore, states like Utah, Dakota and Idaho, where the percentage of ethnic populations with this disorder is far lower than in Ontario, are compelled to universally screen for this disorder. All states in the United States, except for New Hampshire, do universal screening at the source where every child is born. In Canada, the advisory committee on screening for inherited disorders recommended it. In 1994, the Canadian Task Force on Preventive Health Care also recommended that screening should be done. So there's no need for more advice on sickle, and I get impatient. I've been invited to join the committee to provide advice that has been there for decades in the New England Journal of Medicine, in a randomized, placebo-controlled trial, the best evidence of clinical testing you can have. Let's not vacillate and ask for more and more advice. The advice has been there; let's implement it.

The testing is not sophisticated. We've heard about tandem MS. Tandem MS is a sophisticated technology. The technology for testing for sickle-cell disease is much, much simpler. It has been here with us for decades, and we can do it even today.

What do you do for a positive test? Within two months of age, you educate the parents about medical evaluation, how to treat fever when the child is ill, and signs and symptoms of the pooling of the blood in the spleen, because it's the mom who can save her child by discovering that a spleen is suddenly enlarged. We teach them how to feel for it, and they can rush their child to emergency and ask for a blood transfusion immediately. Penicillin: the cheapest antibiotic you can get. It does not cost; it's as simple as penicillin.

Pneumococcal vaccination: I have to give credit to the Ontario government, because the Ontario government has decided that every child born in Ontario should be vaccinated against pneumococcal infection.

Comprehensive care: What does comprehensive care mean? It means that you screen, follow up, confirm the diagnosis, provide centres of excellence to treat the disease and to manage it, and you evaluate the entire system. This is what we are asking for. It is not asking for the moon; it is a simple test.

To add insult to injury, one of the best-equipped reference laboratories, where jurisdictions in the United States send their confirmatory testing to, is based here in Hamilton, at McMaster. It's a laboratory that is sponsored and financed by the Ministry of Health.

The Chair: Thank you very much, Doctor. We have about four minutes for—

Mr. Baird: On a point of order, Madam Chair: Might I suggest that, given this isn't a partisan issue, rather than going around from party to party, you just ask members of any of the three caucuses for questions.

The Chair: If that's OK with all members, certainly. We've got about four minutes. Anybody? Ms. Horwath.

Ms. Horwath: Thanks, Madam Chair. I have one question. First of all, thank you so much for the presentation. It was very powerful and makes one think, "What the heck are we doing?" You had indicated that the process has been flawed and the previous speaker indicated that the process has been flawed. But I get nervous that that just justifies another whole new process that is then going to continue to stall Ontario from moving forward. So from this point, what would you recommend, Doctor, in terms of what can be happening immediately?

Dr. Odame: My recommendation would be an immediate expansion of the committee to bring in an endocrinologist, as my eminent colleague just said, to bring in an expert in blood disorders. Actually, this is a public health issue, and you need experts in public health. You need parents and advocacy groups. You need people who are experts in education, because it's a public health issue. The committee, as it is now, is made up solely of metabolic experts, specialists in metabolic disorders. This is a public health issue, and you need an all-inclusive committee. I think they can do that immediately, expand the committee. I agree that you don't want to stall the process by saying that we're reconsidering the committee, but you can expand it immediately and make sure you have the best possible advice you can get.

The other point I want to make is that we are so late in joining this area that it makes no sense to reinvent the wheel. Jurisdictions are far ahead of us, and their expertise has been accumulated. What we do is to take it from where they are. It's already done. Committees have been set up. Let's look at the way they are constituted and do the same so we can move immediately from worst to first.

1030

The Chair: Ms. Van Bommel.

Mrs. Van Bommel: Thank you very much for your presentation. It's wonderful to have—this is the second time this morning that mention has been made of McMaster in Hamilton and that they have the facilities there. I wasn't aware of it. As you say, it's very heartening to know we have that expertise here already.

One of the things I do know, though, is that the test for sickle cell is already available, and parents just have to request it. Even the cost of the testing is paid for by the Ministry of Health. I understand the urgency about making it mandatory, but are parents aware of the fact that this is available to them? How much awareness have we got that parents really only have to ask for the test and they can have it, that there's no cost to them for this? I'm just wondering about the education and awareness process around this for new parents.

Dr. Odame: Certainly, if I have a patient from that ethnic origin, I ask for testing on that. So my patients are all tested.

Mrs. Van Bommel: You take the initiative as the family doctor.

Dr. Odame: That's right. You ought to know that there is only one hospital in the whole of Ontario—there's coverage in our hospital, and I have to congratulate our hospital. Our hospital took the decision that because of the population, every newborn, whether they are white, black or yellow, gets their blood tested for sickle-cell disease, and they've been doing this for six years. So one, single hospital took the challenge and decided to do screening. That shows you that it can be done.

The lack of education is also very prominent, even among our own professional colleagues. My group, which brings together all the experts in their field, has a challenge to educate doctors, nurses and health care professionals about this disorder so there will be far more awareness in the public so that every person who needs to be screened can be. But you can circumvent all this by mandating screening, which is what Congress did in the US.

The Chair: Mr. Ramal, if you could ask a very quick question.

Mr. Khalil Ramal (London–Fanshawe): Actually, my question has been asked, but I want to take the opportunity to thank Dr. Odame for his presentation. That's it. Thank you.

The Chair: Just very briefly, Mr. Baird.

Mr. Baird: One of the things that comes to mind for me is that it's almost the KISS principle, with science: How do you keep it simple? By having almost a conveyor belt of screening, it's done, it's universal, and I think it probably would be a lot cheaper, in the end, than on a test-by-test basis. That's one of the things that I find so compelling.

The Chair: Thank you very much for your presentation, Doctor.

SICKLE CELL ASSOCIATION OF ONTARIO

The Chair: I would now like to call on the Sickle Cell Association of Ontario. Thank you very much. It was a pleasure meeting you earlier, before the committee meeting started. If you could state your names for the record, you have 20 minutes for your presentation.

Ms. Dotty Nicholas: Thank you, Madam Chair and committee members. My name is Dotty Nicholas. I'm a registered nurse. I'm the president of the Sickle Cell Association of Ontario and I'm also the nurse coordinator of the sickle-cell satellite clinic at the Rouge Valley Health System, Centenary site.

Since February 1981, the Sickle Cell Association of Ontario has been serving the community as a recognized voluntary agency which endeavours to optimize the quality of life for individuals and families with sickle-cell disease. The care and comfort of individuals and families in our community are our primary efforts.

Some of our main objectives and activities include increasing public awareness of sickle-cell disease; educating the population and health care practitioners about sickle-cell disease; liaising and collaborating with schools and other agencies; advocating on behalf of

individuals and families regarding issues arising from sickle-cell disease. We provide counselling to individuals and families with sickle-cell disease. We support research programs and advocate support for newborn screening, and screening of the population at large for each person to know what their red blood cell status is, to enable them to make informed choices. One of the many primary concerns of the Sickle Cell Association is the lack of a newborn screening program, both at the local and universal level in the province.

The Sickle Cell Association has over the years made several representations to the government of the day regarding testing for sickle-cell disease, for a universal newborn screening program. In 1993, the Sickle Cell Association wrote to the then Minister of Health, Frances Lankin of the NPD, with no response. In 1997, the Honourable Jean Augustine was the first member of Parliament to bring the awareness of sickle-cell disease to the attention of the government, but no action was taken. On April 21, 2004, a letter was sent to the present Minister of Health, the Honourable George Smitherman, to which the Sickle Cell Association has had no response.

On an individual basis, we cannot overlook the contribution that Dr. Bob Frankford has made and continues to make toward the improvement of the health care system for the treatment of sickle-cell disease.

With all these approaches to the government and given the diverse population of Toronto and Ontario, it would seem a foregone conclusion that testing for sickle-cell disease would become mandatory.

I am a registered nurse who works at the Centenary Health Centre. I also give counselling to parents whose child is diagnosed, either by coincidence or by a crisis. This concern is particularly relevant because of the devastation of sickle-cell disease on a newborn child's life if left undiagnosed. Many of these children are left undiagnosed until a crisis occurs. Newborn screening for sickle-cell disease is an effective way of reducing morbidity, mortality and disability in infants born with this disease.

Infants born with sickle-cell disease are at risk of complications such as sepsis; severe infection; acute splenic sequestration, where you have a pooling of exudate in the spleen; and acute chest syndrome, where there is bacteria built up in the lungs. Penicillin prophylactic treatment can be initiated at birth if diagnosed at this early stage. There can be a dramatic change in life expectancy of children with sickle-cell disease if early diagnosis is made.

As the Sickle Cell Association embarks on this important initiative to bring awareness of the need for this important service and diagnostic intervention, it is my hope that today this message will receive the attention of the government, which will listen to our concerns and take some action. This important step is a great one today in the lives of those who are at risk of sickle-cell disease or any other genetic or metabolic disorder that can be diagnosed and treated at birth.

I'd like to recognize all the other agencies and individuals who are here today in support of universal newborn screening.

1040

The Chair: Thank you. Are you going to make a statement as well?

Ms. Lillie Johnson: Yes, I will. My name is Lillie Johnson. My background is both teaching and I am a person committed to community health nursing and health promotion. I also served at the Ministry of Health as a maternal and child health consultant and in that position I was able to see the importance of what education and health promotion meant to parents and the population at large.

I am really the founder of the Sickle Cell Association. That was because of what I saw happening, especially to the parents and individuals who could not get any good medical treatment and, more so, because I am committed to prevention.

I got my information from Graham Serjeant, who came up here in 1993, having started newborn screening in Jamaica in 1970. So you see, I want you to do a little bit of qualification about what the Third World is doing, because they started it long before you. As well, I want to tell you that they realize the importance of having newborn screening. Graham Serjeant has visited with us here at all our annual conferences, except for a few, to impress on us the real meaning of what it is to have newborn screening.

We also had a good friend at McMaster University by the name of Dr. Chui; he's now gone to Boston. You see, we keep going back to McMaster because we're not getting any help, after all the appeals from the doctors here to the University of Toronto. So we were like a lone wolf here, trying to say, "Let us do something about sickle-cell disease, although it cannot be cured." On that score, Dr. Chui informed us, "You leave the medical part to us; you go educate the families," and that is what we have done.

Today is a great day for us, to see so many people, parents and relatives who are so interested. Since that report came out and we were not among the 19 who should have testing done, they have been speaking out. That is a great day for us, so we don't need to go back and reinvent the wheel. The education is there. We are going to continue to do education on the importance of newborn screening, not only to the people and parents, but also to the nurses. I just must say to the doctors that another good reason for this great day is that at last we have some doctors who have come out and want to be counted, to speak up for sickle-cell disease.

I am really a happy person today to see a meeting like this, after nearly 25 years. Please let the day go on and the years go on. We don't need to go back and do research on this and that; the figures are there. People are suffering. That is my word for today. Thank you.

The Chair: Thank you very much, Ms. Nicholas and Ms. Johnson. We have lots of time for question. Who would like to jump in?

Mr. Baird: I'll just make a comment: very well said on both your parts. I think it is incumbent upon all of us, having heard everything you and the previous speaker said with respect to the timeline and the way we go on, to say, "What are we going to do about it today?"; not what we are going to do, rehashing the past, but what can we do positively today on this issue. I think that's the thing we've got to focus on. So thank you very much for your presentation.

Mr. Jim Brownell (Stormont–Dundas–Charlottenburgh): First of all, I would like to say thank you for your presentation, the excellence of it and the excellence of the two we've already had this morning. You have reaffirmed the need for what's being done in this province, and that is to move forward from worst to first. I think that was clearly stated by my colleague down the table, that we need to make that effort and make it as quickly as possible so that those people who are out here, who are supporting and suffering, do get the treatment. We heard from John Adams that it should have happened yesterday, that kind of idea.

We heard from Dr. Isaac Odame about what this sickle-cell anemia is all about and what should be done, and the same from your presentation. We have a very good understanding of the diagnosis; there's just one little question on the treatment. I did hear in Dr. Odame's presentation about blood transfusion very quickly. I think that's part of it. And I heard in your presentation about penicillin. How quickly does the treatment resolve problems in babies and these young people who have been diagnosed? We heard that the blood should be a doughnut shape and then you have the sickle cells and the odd shapes and whatnot. How quickly does it happen and do they turn to doughnut shape? I'm just curious. I don't know a whole lot about this. I spent 32 and a half years teaching in elementary school. I'm not in the medical profession, so I'd just like to know.

Dr. Odame: Can I answer that question?

Ms. Nicholas: Yes.

The Chair: We have three other people who want to ask questions, so welcome back. Would you like to state your name before you answer the question.

Dr. Odame: My name is Isaac Odame. I'm a pediatric hematologist.

That's a good question. It's a genetic disorder and you're not going to cure it, as I said, by bone marrow transplantation. People say there's no cure; we know there is a cure. The future for us is gene therapy. This has been piloted in animals and we are hopeful that gene therapy will be the future. But let's leave that aside.

It's curable. It can be fixed by bone marrow transplantation. You can avoid early deaths from infection by providing antibiotic prophylaxis and vaccination. You can avoid early death by educating the mother, because these children don't have anything about them that shows they have the disease. The very first time the parents know they have the disease, the child may have sequestration crises, the blood pooling in the spleen which I described, leading to shock and death, or they have severe pneuomococcal infection which leads to death or severe illness. These early causes of death are preventable by simple techniques: education, penicillin, vaccination. It's a no-brainer.

Ms. Horwath: I have to say that as a person who was not only raised in Hamilton but had my child at McMaster University, it was good to hear some of the great things that are happening at the medical centre there.

I wanted to focus a little bit on what Ms. Nicholas and Ms. Johnson had to say about the fact that the children they deal with are ones who, by coincidence or because of crisis, are determined to have sickle-cell disease. I guess it's similar to what Dr. Odame is saying in terms of the fact that it's not something we're necessarily looking to cure but rather to reduce the impact on families and children and increase their wellness over their lifespan.

It brings me to the issue that I think Ms. Johnson was raising about the gentleman who came from Jamaica in the 1970s. It seems to me that because of the propensity of the disease to occur in Jamaica, they've already achieved best practices, which in fact isn't education, or educating parents to make sure they get their children tested because they happen to be in one of these particular ethnocultural groups, but universal screening. So if it's necessary in Jamaica to have universal screening where the propensity for the disease is so high, then it would seem to be even more so in Ontario.

1050

Why is it, in your opinion, that legislators keep talking about, "Well, we just need to educate people so that they can then go and get tested," or "We just need to let the community know, and then the community can take it upon themselves to have their children tested," because the likelihood is that they're in a group that's more likely to be diagnosed?

Ms. Nicholas: There are many individuals who have the sickle-cell trait and just don't know they have the trait. When these individuals get married and have a child, the child may be born with the disease and they don't know.

Recently, I ran across a baby who came into our institution—this baby was three months old—and the only thing the mother noticed was that he was having constant high fever. She had no education on sickle-cell disease. So she brought the baby to see the doctors, and his fingers and toes were swollen. The doctor who saw the baby, because of his knowledge, knew right away that this was sickle-cell disease. Now, if this mother did not take this child to the doctor, this child could have developed other complications, or she could have had this baby at home and treated him with Tylenol while an infection was brewing, which can cause death.

Ms. Horwath: So just for confirmation, the best practice is screening at birth for this disease and not trying to doff it on to the individual responsibility of the parent or the family.

Dr. Odame: I will just comment on that. There's one dictum in public health, and that is, if a condition is devastating and will lead to death, you don't place

primary responsibility on either the mom or society to do it. That's the whole point of screening. It's the same with PKU or congenital hyperthyroid disease. You pick it up by mandating it, and that's what we have to do.

Ms. Johnson: May I just give you a few examples that have occurred because infants were not screened at birth? We have twins in our caseload. They were born in a reputable hospital, very ill, premature, by Caesarean section. The mother was sent home with one baby who was very ill; the other was sent on to the maternal grandparents. That child was in and out of hospital, misdiagnosed, although they knew the mother was carrying the trait and the father was carrying the trait. They were 19 months old before the twins were diagnosed with sickle-cell disease.

The Chair: Thank you. We are out of time. However, we're a little ahead of schedule, and because I consider you to be trailblazers in this area, I'm going to give people a little extra time. I have questions from Ms. Marsales, Mrs. Van Bommel and Mr. Baird. I'd ask people to be very brief, however.

Ms. Judy Marsales (Hamilton West): Rarely a day goes by when I'm not singing the praises of McMaster, and today you've reinforced my pride in McMaster. Lillie, your passion and your articulate presentation speak volumes for the medical leadership that's being demonstrated on a daily basis at McMaster. Of course, as you know, it' s in my backyard.

I welcome you here. I thank you for your dedication and for your interest. All of you, thank you.

Mrs. Van Bommel: Thank you, Chair, for the indulgence. I just want to make a quick comment. I want to first of all commend all of you on your dedication and determination. As Lillie has said, it took 25 years. Many of us have had to fight on certain fronts for certain things, and there is a real dedication that's needed for that. I commend all of you on that.

I certainly want to let you know that you've been heard. Premier Dalton McGuinty said just this week that he fully expects that the advisory committee on newborn screening will recommend mandatory sickle-cell testing. I know that all of you are looking forward to that. Thank you very much for your presentation and your dedication and determination.

The Chair: Mr. Baird.

Mr. Baird: Just three points: I'd have to say to Ms. Marsales that I briefly worked at McMaster's faculty of health sciences before I was elected, so I will sing its praises as well.

I'm a big believer in personal responsibility: that people can make choices and bear the consequences. If I choose to start smoking cigarettes today and I develop lung cancer, there's a certain amount of personal responsibility there. If I choose to go parachuting and am injured, at the end of the day, that's life in the big city. But I'll tell you, young infants, on a scale of one to 1,000, are a zero on the personal responsibility side. That's why it's so important for us to acknowledge that, particularly when it comes to children's policy. Perhaps with no child more than an infant is that case more relevant.

I'm struck by your presentation when you talk about what Jamaica is doing. I think that there is a tendency in government—and it's not a partisan tendency—to say, "Well, how do we address this issue?"

I remember when I was Minister of Social Services we were looking at literacy testing to help those who were unemployed. We were going to set up a panel to develop a request for proposals so that we could have experts develop a test to determine whether people can speak English, and then that would come back and we would consider the contract, and there would be a panel to look at the considering of the contract, and then we would award the contract and it would go out. I said, "Surely to God, there's got to be somewhere in the world that has some sort of test on the English language that we could just steal." We actually got it from the Niagara region. The Niagara social services branch had a great test. We phoned them up: "Do you mind if we use this?" "Go ahead; photocopy it." We had it in 24 hours.

That's a rather simplistic notion but, again, we heard from you, Doctor, that 49 states are testing for sickle cell. I agree with what Ms. Van Bommel said, that the Premier has certainly indicated hope that the panel will recommend it. I would think we could just pick up the phone and phone Massachusetts ourselves and do what they're doing. It's not rocket science. I think that too often in government we try to reinvent the wheel and have panel after panel after panel reinvent the wheel, when it really is simple. People say, "It's just never that simple." Well, sometimes it is.

You made a powerful statement, and I appreciate it.

The Chair: Thank you very much for your presentation. On behalf of all of the committee, I can say that we want to thank you for your pioneering work, your trailblazing work, and for coming forward here today.

WILLIAM HANLEY

The Chair: I'd now like to call on Professor William Hanley. Good morning, Professor Hanley. If you could state your name for the record, you have 15 minutes total as an individual. You can reserve some of that time for questions or use it all up in your statement.

Dr. William Hanley: I'm William Hanley. I'm a professor emeritus at the University of Toronto and an honorary physician at the Hospital for Sick Children in Toronto. I was the director of the phenylketonuria, or PKU, program at Sick Kids Hospital from 1963 until 1997. I was a member of the advisory committee—appointed by order in council, by the way—to the Ministry of Health on newborn screening from its inauguration in 1968 until 1999. I was the chair of that committee from 1990 to 1999, when I resigned.

I've given you a handout of four pages, and it's going to take more than 15 minutes to read that, but I just want to make two or three points. When you get to be an old guy, you reminisce and you talk about history.

The history of screening for PKU in Ontario: When I was asked to take over the PKU program at the Hospital for Sick Children in 1963, there were about a dozen and a half patients involved. Most of the children were retarded because they'd been diagnosed late. There was no such thing as newborn screening at that time. The treatment had just been developed in the late 1950s by Dr. Horst Bickel in Manchester, and later in Heidelberg, and we were just starting to treat these patients.

1100

Reviewing the literature, it was absolutely obvious that what we had to do was screen them as newborns, because treatments started after two or three weeks of age are too late: They're permanently—often profoundly—retarded. So Dr. Hugh Cameron and I—Hugh Cameron was chief of pediatrics at East General—went to the Minister of Health and said, "Look, we've got to start universal screening for PKU." They looked at us and said, "Are you crazy? There's no way. Go away and don't bother us."

Fortunately, we had a very strong PKU parent association. The reason they were strong was that they knew that this mental retardation that their children were suffering from could have been prevented had newborn screening been available to them. They were a very active and strong-willed group. They went to the top; they didn't start at the bottom like we did. They went to the politicians, Stephen Lewis in particular, and several others. They went to the media, and we got a lot of press and television coverage. Then we got a private member's bill introduced for PKU screening by Stephen Lewis. Lo and behold, on June 1, 1965, newborn screening for PKU started in Ontario, and there have been over 400 cases diagnosed and mental retardation prevented.

Does this story sound familiar? History repeats itself.

Mr. Baird: I'm no Stephen Lewis.

Dr. Hanley: The doctors had no power, but the patient advocates did. That was my observation.

In 1991 or 1992, the advisory committee realized that Ontario was surrounded by jurisdictions that screened for up to eight diseases. We were still stuck at two. Under the auspices of the public health branch, we invited experts from the United States and Canada to come to our meetings and present their field of expertise regarding newborn screening. We looked at sickle-cell disease, cystic fibrosis, congenital adrenal hyperplasia, muscular dystrophy, toxoplasmosis, maple syrup urine disease, galactosemia, biotinidase deficiency, homocystinuria, neuroblastoma and others.

We made a decision that we would recommend to the ministry through the public health branch that screening be started for congenital adrenal hyperplasia and sickle-cell disease. I've got a whole file drawer full of files on sickle-cell disease. We spent many, many hours and much effort to try and get this off the ground. We even had a meeting with the Deputy Minister of Health. At that meeting, the endocrinologists scuttled us with congenital adrenal hyperplasia, saying they weren't ready for that yet. So we forged ahead with the sickle-cell screening recommendation, but we got nowhere. For many complicated reasons that we can't go into here, it finally died in 1998. About that time, Tandem MS, TMS, became a viable, precise, wonderful technology for screening the diseases that have been listed, so the committee's interest switched to getting TMS going.

The final thing, a little story I want to mention, is about Robert Guthrie, whom John Adams mentioned. Robert Guthrie had a son who was retarded. He didn't have PKU; I think he had fragile X, actually. In any event, he had a niece in Chicago who was diagnosed with PKU at 12 months of age, and he had read the literature. He was a cancer researcher, Robert Guthrie. He was kind of eccentric. He said, "We've got to be able to diagnose these kids with PKU as newborns." He developed this test, bacterial inhibition assay, the Guthrie test, and he started promoting it. Everyone thought he was crazy, just like the ministry thought we were crazy in 1963. He wrote a paper, wrote a manuscript, showing how this could work. The first journal he sent it to turned it down: "impractical." Fortunately, the second journal accepted it. It became universal in the 1960s, and in the year 2000, his paper was declared the most significant paper of this past century in the field of genetics.

On the second-last page of my four pages—I can read part of this—I am indeed extremely pleased that the Ministry of Health has announced expansion of newborn screening to 21 conditions, prompted and promoted, to a great extent, by parent advocates, some politicians and the media. The doctors didn't have much to do with it.

Now what needs to be done? I would like to see a stand-alone program for payment of treatment products for inherited metabolic diseases include adult patients. There is a proposed business plan for this initiative, introduced by the advisory committee in 2001, which hasn't resurfaced. At the moment, they're claiming that they don't want to pay for adults with PKU and other inherited metabolic diseases. Provision should be made available for immediate introduction of new, proven products, not a six-month or a year delay to decide whether they're viable, and a detailed computerized program, plus personnel, for prompt and proper follow-up of initial positive tests. There are a significant number of "lost to follow-up" tests in the current program, which sooner or later are going to surface and cause some problems, including medical/legal problems.

There needs to be a further expansion of newborn screening in Ontario and, indeed, the rest of Canada, to include the remaining conditions recommended by the American board of genetics, i.e., cystic fibrosis, hemoglobinopathies, congenital adrenal hyperplasia, biotinidase deficiency and galactosemia—this would get Ontario up to the mark—and a properly appointed advisory committee on newborn screening to involve all stakeholders, including the public, hematologists, endocrinologists, chest and GI physicians that look after cystic fibrosis. The committee, as Dr. Odame said, until they all resigned about a year and a half ago in frustration, was involved with clinicians who look after the inherited

metabolic diseases, the aminoacidopathies, organic acidopathies, fatty acid oxidation defects and so forth. There should also be a detailed plan for quality assessment and regular review of the expanded newborn screening program. Thank you.

The Chair: Thank you very, very much, Professor.

Are there any questions? Yes, Mr. Baird.

Mr. Baird: Just a comment: I think too often when it comes to social policy, people will use—you haven't—"Well, we'll save money in the long run." It sort of underlines the fact that if we didn't save money, would it still be worthwhile? You talk about young children who, as a result of lack of diagnosis in the past, develop a developmental disability. We spend, as a province, more that a billion dollars directly—a billion dollars directly—on supporting services for people with developmental disabilities, and that doesn't even include the Ontario disability support plan, which would be a significant amount more. For someone to have a group home bed, that can cost $50,000 or $60,000 a year, plus day programming. Plus, if they have more advanced needs, it can even go to, in our three remaining institutions, $110,000 a year. So there's a considerable amount of financial cost, and that's annually. People with developmental disabilities now, different from the past, are now living. We now have for the first time, significantly, a generation of senior citizens, people with developmental disabilities. We've got to keep that in mind.

1110

So if we're talking about an academic argument of should we or shouldn't we include the advancements of these tests—and I kept a log from the first presenter of the number of conditions tested in other jurisdictions—I think we've got to start asking ourselves, "Why not?" How much is it going to cost to do it incrementally? It's so minor and insignificant. If you're going to test for three diseases, now going to 21 or 22, what is the additional cost of going to 23, or from 44 to 45? It's so marginal. We're going to need a scalpel to split the difference, and that's something that I think we should bear in mind as we consider this issue.

Thank you very much for your presentation.

The Chair: Would you like to respond briefly to that?

Dr. Hanley: The cost-effectiveness of TMS has been reviewed in several jurisdictions, including the Kaiser Permanente people in Los Angeles, and they find a positive cost-effective benefit to the universal expanded newborn screening.

Mr. Baird: It's not the reason, but it's a reason.

The Chair: Thank you very much, Mr. Baird. Thank you, Professor.

WAYNE SUNG

The Chair: I would now like to call on Wayne Sung. Good morning, Mr. Sung. If you could state your name for the record, you have 15 minutes for your presentation.

Mr. Wayne Sung: Hi. My name is Wayne Sung, and I'm a concerned parent. Thanks a lot for letting me share my experiences as a concerned parent.

My wife and I were fortunate to have a baby boy last December. He was healthy. We were not knowledgeable about newborn screening at all until a Toronto Star article, which you may all be familiar with, that came out earlier this year. Upon reading up, doing more research and contacting the parent advocacy group, Save Babies, it was a real eye-opener to find out just how big a topic this is. In contacting members of the advocacy group, they pointed me to the Hospital for Sick Children to get more information on obtaining tests for my baby. I contacted the office—I believe it's the office of metabolic disorders—and they actually said they did not know of any method in Toronto to get testing.

Through the Sick Kids' office, they actually suggested that I contact parent advocate John Adams, who was very helpful in providing additional information and pointing me in directions on how to obtain tests. I first tried to find test kit vendors. There was none in Ontario. In the US, one particular vendor, Pediatrix, apparently offers the most comprehensive test kit. However, they were at first unwilling to provide a kit, since I was a Canadian. Subsequently, I believe it was through other advocates, they actually changed their policy and were willing to provide a kit.

The other problem we had was finding someone who was willing to perform the test. Our pediatrician, whom we hold in great respect—an excellent doctor—was unwilling to perform the test initially, not because of perceived accuracy or medical benefit, but based on policy. He had stated that it was not standard Ontario medical practice. So again, through the help of concerned parent advocates, I was able to obtain the contact information for a pediatrician who was willing to help us out and perform these tests.

All said, from the point where my wife and I began investigating newborn screening to when we were finally able to obtain tests—which were, fortunately, negative—it took over three months for us to get tests. I guess the concern is, in spite of all our efforts, there does not appear to be any source in Ontario or Canada to obtain tests. There's a debate about two-tier health care and all that, but if there's no source in Ontario or Canada to do these tests, it's essentially no-tier. So I'm very encouraged to hear that the ministry does plan to proceed with some supplementary newborn screening. But from our experience, until that's available, there are very few alternatives for parents—or at least it's not easy to obtain these additional tests.

The Chair: Thank you for giving a parent's perspective to the committee. We have plenty of time for questions.

Mrs. Van Bommel: My question, and I don't expect you'll have the answer because this is probably a bit more of a medical question: I know that in the case of PKU, it's time-sensitive in terms of the testing. It's important that the testing be done within 48 hours for

people to realize the full preventiveness of the testing. How many of the newborn screening tests are time-sensitive? How many need to happen within 24 hours or 48 hours of the birth? Does anyone have an answer to that?

The Chair: If the committee and presenter would like, we could bring an expert back to the table to answer that question. Is that OK with you?

Mr. Sung: Certainly.

Mrs. Van Bommel: Thank you, Chair.

The Chair: Just state your name again for the record.

Dr. Hanley: Bill Hanley, formerly from Sick Kids.

Most of these diseases need to be diagnosed in the first few days or couple of weeks of life. They're virtually all time-sensitive. That's the rationale for newborn screening. If you test them when they're a year old, that's a different story.

Mrs. Van Bommel: Mr. Sung's story about his pursuit of a test and the time that must have gone by while you were doing that—I wondered, at the point that you've gotten to the testing, if you would have had the full benefit of the test any more.

Dr. Hanley: If it's one of the organic acidemias or amino acidemias where they can deteriorate, precipitated by a mild viral illness, and go into coma, that may not happen until they're six months, nine months, a year, two years, three years of age. So it depends on the disease, but you don't want to wait until the child goes into coma before you make the diagnosis because, even if they survive, there's often significant damage to the brain.

Ms. Horwath: I wanted to remark on the courage of Mr. Sung to come here. It must have been a very difficult and frustrating and heart-breaking process for you to have to go through the self-advocacy, if you want to call it that, to get something that you needed for your newborn child. I thought it would be important to acknowledge that you took the time out of your day to come here and inform us about what it's really like to have to go through that experience. I just wanted to say thank you for doing that.

1120

Mr. Sung: Thank you very much. Actually, I think the people who really should be thanked here are the concerned parents, the advocates and people such as the doctor here, who have really pushed this cause; they're the ones who are continuing the public knowledge. With the official sources from our hospital where we gave birth and the people we came in contact with for delivery this never came up, so I think it has very much come up as a grassroots type of initiative.

The Chair: Thank you. Mr. Baird?

Mr. Baird: I guess it just points to the need. We have a publicly funded health care system, but I think this issue is almost aside from that. When you go to rent a car and don't want to take the insurance, they make you sign so that you know it. I think most parents would pay a $10 or $20 fee for the test. It's just that they lack the knowledge. I guess what is so disheartening to hear from you is that even when a parent has the knowledge—you mentioned reading it in the Star, which has been a big champion of this issue—the rigmarole they have to go through and the costs associated with every contact that they made, from the health care practitioner to the hospital etc. The conveyor belt approach would just make such great sense. There's such an argument for it that I think it would probably be cheaper in the end just to do it for all people. They didn't have the money to charge parents for it. I think it would be cheaper in the end to just do it for everyone rather than charge them for it, because you'd have to do it on a selective basis. But you make a powerful argument about how difficult it can be, even when someone—we heard folks from the sickle-cell association earlier talking about the public education that they do, but when you have to go through this type of rigmarole, I think few parents would know enough and then have the endurance to go though that type of bureaucratic maze. So I appreciate your testimony.

The Chair: Thank you very much for your presentation.

MOLLY CHIN

The Chair: I will now call on Ms. Molly Chin. Hello, Ms. Chin.

Interjection.

The Chair: Yes, we're a little ahead. If you could state your name for the record. You have 15 minutes.

Ms. Molly Chin: My name is Molly Chin, and I'm a full-blown sickle-cell patient. I was a little worried I wasn't going to get here today because I just recently got out of the hospital after 10 days.

One of the reasons I'm here too is, I look around the room, and typically when the words "sickle cell" come up, it's traditionally black people that are mentioned. I'm here to say that I'm one of the few that do look the way I do, and probably one of the healthier ones right now. I'd say that 70% of my friends that had sickle cell have passed away, and a lot of the young ones I know now are having a rough time with it.

I have had my rough times with it as well. My mother recently passed away, and she told me that the guilt on her when she found out what sickle cell was ripped her apart, because I'm from Jamaica, and back home they diagnosed me with rheumatic fever. It wasn't until I came here and needed to have my tonsils taken out that I was taken to Sick Kids. They did the blood work and came up and said, "Your child doesn't have rheumatic fever. She has sickle-cell anemia." That floored my mother. My mother didn't know what that was to begin with.

Throughout the years here in Ontario, to this very day, if I go in and I don't tell them I have sickle cell, they will not treat me for it. Even when I tell them, they will treat me or look for other things because I'm not black. The first thing they'd say is, "OK, who in your family is black?" or "Where did you get it from?" So I've gone through all the things. If she had had screening and more knowledge to prevent a lot of the illnesses I went

through, I guess it would have helped. I believe it was Dr. Olivieri that started the hydroxyurea and stuff and wanted me to get in that program. But at that time, I was so ill that I couldn't partake in it.

I've always had doctors tell me that because of having sickle cell, I would have a secondary lifestyle. I asked, "What was that?" They said, "Well, you'd go to school, but you'd miss a lot of school. You might graduate, hence you might not graduate." I didn't want to believe that. I thought, well, everything I started in life I wanted to finish. But I also noticed that with everything I started, just before graduation or just before an exam, because of the stress and everything that sickle cell brought on, it would stop me dead in my tracks. Then I got the scare where I needed a lot of blood transfusions; there was that scare with AIDS and transfusions and stuff. To this day, I still need transfusions to balance out my life.

I think my mother was told that I'd be lucky if I made it to age 20. Then, after I passed 20, she said, "You'll be lucky if she makes it to age 30." So on my 40th birthday I threw myself a big party, invited my friends and said, "Look, I'm 40 and I'm still here." This was a big endeavour for me.

I've made decisions over the years because we weren't informed from the get-go. I had my tubes tied because I thought I would never want to bring a child into this world to suffer the pain I've suffered, on top of which I have other problems that precipitated from the sickle cell, where I have a narcotic allergy, so I can't take a lot of medication that you give for pain.

Just a recent incident: A very good friend of mine knew that I have this illness, but she had never experienced it, like taking me to the hospital. She had to do this and she was literally traumatized. She said, "I don't know how a mom could handle that if it was a young baby," when she saw me go through the agony and the pain.

I've had the opportunity just in the last two weeks to ask friends and colleagues—and I purposely asked black couples first, white couples first, Filipino couples. I sort of picked and chose, and I said, "You know, if you knew you had this trait in you or your spouse or your partner who you're planning to have a child with, would you want to be screened?" A lot of them said, "Well, yes, that makes sense." If it's something where you can get screened and prevent a lot of attacks or fix a lot of the problems before they get worse, yes, then that's what they'd want.

I find that with sickle cell, we have knowledge. We're doing the education and it's a no-brainer. It's something that should just be out there, that with an illness like the way it is now we should have screening. Why not? There's a lot of the stuff that you can prevent for babies. I've lived this long. Maybe it's just because I had really good doctors taking good care of me. We didn't have screening, but it's so important to inform parents and let them know, "We can do this, this and this to lessen the child's outbreak with sickle cell."

I don't know if any one of you here has seen a sickler go through the agony and the pain, and you're helpless and you sit there. There's not a thing that you as a mom or dad can do, and you watch your child. My pain is so bad that I would try to break my wrists, which I've done, to defer the pain, just so that I wouldn't have to feel that pain. From one day to the next, I don't know if I'm going to be in pain. I'm having a good day today. Probably by tonight I'll be in agony. I say, "OK, I've got a six-hour window." If the pain doesn't ease with the medication within six hours, I know I'm going to the hospital. Thank God for nurses like Lillie and people who are educated. In a lot of the hospitals now, when a sickler comes to the emerg, they say, "OK, we have a sickle-cell patient," so right away it's oxygen. They get you hooked up to the IV. The pain meds have to start, and all of these things. If they get started right away, bang, bang, bang, it lessens, I find, the sickler's time in hospital. The longer a child has to wait in the emergency department to get medication to get it under control, the longer that child is going to stay.

1130

We also have to live a lifestyle where any little cuts or infections—and we have overprotective moms and dads who won't let their kids go and play because they're so scared that the little one is going to pick up something and they're terrified. Then you become this overprotective parent, and your child doesn't get to do what they need to do. So when Camp Jumoke was brought in, it was like, "All we want to be is normal kids, but every time we want to do something normal, mom and dad are so terrified that we're going to end up in an attack." I think that if we have the screening and we can stop a lot of the things from getting worse than what they could be from the beginning, and monitor and help the system, as we help the system, the system can work for us as well. I say, why not have the screening? It's a no-brainer idea, I think, and it would help tremendously a lot of people.

The Chair: Thank you for sharing your personal experience with us, Ms. Chin. It's very much appreciated. Are there any questions?

Mr. Brownell: Just a comment, basically: We just heard from Mr. Sung, and I heard from John Adams about the necessity for education very early on. I think that the profile has been raised in the press and the fact that this is an all-party committee hearing is going to raise the awareness of Ontarians, and that's important.

The three of you have made statements about education, and I think it's extremely important. I know that Mr. Adams held up a brochure. Maybe there's enough in that brochure, but now there has to be more in the brochure with regard to what's coming, and hopefully what's coming in the very near future. When we say as a government, "Move from worst to first," I think that's extremely important. Education is going to be a big part of it, just as it is in the campaign to alert people to smoking in the workplace and the problems with smoking. Once again, education is very important. A very fine message. Thank you for your personal comments.

Mr. Kim Craitor (Niagara Falls): Just one question, Molly: As I sit here, listening to your story, I just can't

imagine. If you had been tested at the beginning, what difference would it have made, just so I can understand it?

Ms. Chin: At the beginning, back home or here?

Mr. Craitor: Yes, if you had been tested and they had understood.

Ms. Chin: Back home, my mother still didn't know what sickle cell was back then.

Mr. Craitor: Just so I understand, if you had been tested, what would have been the difference in your life if they had known you had it and given you the treatment?

Ms. Chin: The treatments would probably be different. I probably would not have had to go through a lot of what I did go through, from what my mother tells me. I can't remember far back as a child myself, but I know I was in pain a lot and she hired nursemaids 24/7 to watch over me. I know that she went to her grave with the guilt on her of thinking that this was something she caused or did. If she had had more knowledge, maybe she could have helped me. I don't even know if they had prescreening back home then. I left Jamaica when I was 10 years old.

There was also the stigma that was placed on sickle cell. When I first came here, everyone called it the black people's AIDS. You know? Even the Greek people did not want to know that Greek people could have sickle cell. It was called Mediterranean anemia. They gave it another name. It was a stigma to know that you had it. To this day, it's the same way. No one wants to know that you have sickle cell because "Oh, it's out of Africa; it's AIDS."

Like I said, even the doctors here—recently I went in and I was having trouble with my spleen, because I'm one of the few who still have their spleen, and the doctor refused to give me treatment for the—I don't know how you say that word—

Interjection.

Ms. Chin: —that long word. He refused to treat me or believe that I had sickle cell because I didn't fit the criteria: I wasn't black; I was Oriental. He wanted to make sure that all the tests were right. I said, "Have my tests come up from the other hospital." His idea of treating me was to put me to sleep and put a catheter in, which was all the wrong things to do because by putting in the catheter, I ended up with a severe infection, which triggered a violent attack. This was a hematologist doing this.

The Chair: Thank you very much, Ms. Chin.

TAMMY CLARK

The Chair: I'd now like to call on Tammy Clark. Welcome, Ms. Clark. If you could state your name for the record. You have 15 minutes.

Ms. Tammy Clark: My name is Tammy Clark and I'm a parental newborn screening advocate. I'm also the founder of the Save Babies Through Screening Foundation of Canada. But most importantly, I'm a mother who has experienced the loss of a child because of the lack of a comprehensive newborn screening program in Ontario.

I believe that it is very important for me, as difficult as it is, to share my daughter's personal journey toward diagnosis of MCAD deficiency with this committee, for the purpose of showing or exhibiting what the consequences are of having this type of program—the discrepancies in the program. So if you would, bear with me. I will try my best to not break down.

I would like to share Jenna's journey with MCAD deficiency. I'll start with this: When I became pregnant with our third child, we realized that our home would no longer accommodate our growing family, so we decided to move. In the fall of 2001, we moved into our new home in the village of Kars, Ontario. Life could not have seemed sweeter. We had our new home with plenty of room for a new baby on the way. Who could ask for more?

Time passed, and the pregnancy went by without any complications. I did all the things that a pregnant woman should to help ensure a healthy baby. On February 17, 2002, our world would be forever changed with the arrival of our sweet baby daughter, Jenna. There were no complications with the birth. The only surprise was that she had red hair and blue eyes.

Jenna was a very sleepy baby when she was born. I had a difficult time trying to get her to breastfeed. The nurses reassured me that this was all very normal because of the delivery. After many attempts, I finally got her to nurse. The next evening, our pediatrician came to the hospital to examine Jenna. He listened to her chest, moved her legs and declared that she was a healthy baby. He told me to call his office to book Jenna's first checkup and then he was gone. Later that evening, the nurse took Jenna from me in order to do her heel prick test, which at that time, of course, was and still is for PKU and congenital hypothyroidism. Little did we know how important this test could have been for Jenna's very survival.

We were discharged from the hospital the following afternoon. We were ecstatic. Everything seemed so great. Our circle was complete. We felt truly blessed.

After we got settled at home, life went on and we carved out a new routine. From the day she was born, Jenna was a strong baby. She could hold her head up; it was like she didn't want to miss a thing. At two months old, she had learned to roll over on to her tummy; at four months, she had already cut two teeth; at six months, she had started on some solid foods and was enjoying the new sensation, as most infants do, of razzing when she had food in her mouth. At seven months, she was crawling all over the place. She especially loved to crawl toward the sunniest place in the room to bask in its warmth, almost like she remembered where she came from. At eight months, she was able to climb up stairs, and by nine months, she had started cruising around the furniture. We were certain that she would be walking very soon. She was a wonderful little girl who loved to babble, "Dadda," and melt her daddy's heart. She would

giggle with delight when he gave her raspberries on her tummy, and developmentally, she seemed to be reaching her milestones, and more.

1140

On the morning of November 21, Jenna woke up very lethargic. I hoped she wasn't coming down with the flu that had made my son, Justin, ill the week before. Later that day, for reassurance, I took her to the pediatrician. At 1:30, Thursday, November 21, 2002, I brought all three of my children to the pediatrician's office. When the doctor entered the examining room, I was holding Jenna in my arms, and she was quite sleepy. He commented that while she was quiet, he would look in her ears. I then placed her on the examining table, and she suddenly seemed more alert—a little Dr. Jekyll/Mr. Hyde thing happening. The doctor listened to her heart, and he informed me that Jenna was running a fever, and to give her Tylenol or Tempra. Her diagnosis was the flu. I was told to keep pushing fluids. The doctor then switched his attentions to my other two children. After reassuring me that they were fine, he left the room.

When we returned home from the doctor's office, Jenna's condition hadn't changed. She was still very lethargic, but she was drinking, so I took that as a good sign. When my husband came home from work, Jenna seemed to perk up a bit at the sight of her daddy. Later that evening, Jenna's fever had broken and she seemed a bit better. Reluctantly, at 11 p.m., I put her to bed. About a half an hour later, I heard her cry out. I checked on her and she seemed fine.

Around 4 a.m., Friday, November 22, a day forever engrained on my heart, Jenna cried out. I bolted from my bed to check on Jenna. I checked Jenna's diaper and tried to get her drinking again, but she was resisting taking a bottle. When I finally got her to take a sip of fluids, she seemed content. A while later, she started making noises as if she were going to vomit, and all I could think of was that something just wasn't right. I expressed my concerns about Jenna to my husband. We decided that if Jenna wasn't any better, we would take her back to the pediatrician's office when it opened. Unfortunately, we never got that chance.

At approximately 6:30 a.m., she stopped breathing. I tried to perform CPR on Jenna while my husband was on the phone with the 911 operator. After what felt like an eternity, the paramedics finally arrived at our home. They whisked Jenna off in the ambulance and told us to meet them at the children's hospital. My husband sped off after the ambulance in his car while I waited for someone to come and stay with our other children. Finally, a police officer arrived, and after some coaxing, he agreed to take me to the hospital. Of course, I couldn't understand why I had to coax a police officer, but I would later find out why.

It was the longest ride of my life. When I arrived at emergency, my husband was waiting outside for me, so I figured that this meant one of two things: that they were working on Jenna and he didn't know what happening, or that Jenna had died, and unfortunately it was number two.

So, to say the least, we were in shock. How could this have happened to our baby, who only two days previous seemed so healthy? In all her nine months of life, this was the first time Jenna had ever been ill. Surely there had to be some mistake. As we were taken to the emergency room where Jenna lay dead on a stretcher, reality began to set in that this was not just a bad dream. There was a tube in Jenna's mouth from their efforts to resuscitate her. The emergency room doctor reassured us that they had tried everything, but they could not get Jenna back for us. We cried, and so did the hospital staff. They were so supportive; I can't say enough about Children's Hospital.

The coroner came in to confirm her death. We were then told that we could have some time with Jenna to say our goodbyes. We were ushered into a small visiting room with Jenna as they needed to clear the emergency room. Our pediatrician arrived at the hospital and stormed into the room, asking me, "How did this happen? She was perfectly fine in my office yesterday." We got to accompany Jenna's body to the X-ray room. Afterwards, we had one last goodbye.

The hardest thing we had to do was hand her over to the nurse who would take her up to autopsy. This obviously was not something we ever envisioned having to do with our child.

Next, we were advised that the police needed to question us for their investigation into Jenna's sudden death. The police questioned my husband and me separately about what had happened. While we were at the hospital, our house was seized by investigators, items taken from our home as evidence. We were told that we could not leave the hospital until the initial autopsy report was released. When the initial autopsy report came back, we were told that the cause of death was Reye's syndrome. We were advised that we were free to leave the hospital. It seemed unfair to be leaving with a little tole-painted box and a blanket instead of our sweet little Jenna.

So there is Jenna for everybody to see. Can you hold it up for me, Anita, please?

Upon arriving at home, I kept thinking that somehow someone had made an error and surely the doorbell would ring and our daughter would be returned to us.

For a while afterwards, time seemed to stand still. I decided to research Reye's syndrome, as I didn't understand exactly what it was. I contacted the Reye's syndrome association in the United States. When I relayed Jenna's story to them, they told me that it didn't sound like our child had died from Reye's syndrome as there were no aspirin products administered. They mentioned that I should read about inborn errors of metabolism, of which I knew nothing.

I started researching these disorders and realized that if in fact this was an inborn error of metabolism, my two other children might also be affected, as these disorders are hereditary. I called the children's hospital and spoke

with the doctor who had helped us on the day Jenna died. After speaking to her, I realized that nobody would believe my concerns for my other children, because the diagnosis of death remained as Reye's syndrome.

Ironically, a few days later, I received a call from our local coroner advising us that Jenna's diagnosis of death had been misdiagnosed, and the correct diagnosis was now a disorder called medium-chain acyl-CoA dehydrogenase deficiency, MCAD, which is an inborn error of metabolism.

We were advised not to research information about this disorder on the Internet, that an appointment had been made for us to see a specialist at the genetics clinic at our children's hospital. Naturally, because I was told not to seek out information, I did. This is how I learned the heart-wrenching truth that this whole tragedy could have been avoided with a simple $40 blood test similar to the heel prick test that is currently done for PKU.

MCAD is considered a very easily treatable disorder in most cases. The most important component to treating this disorder is knowing that a person has the disorder. I've been told by specialists in the medical community that of all these types of rare inheritable disorders detectable by a newborn screening, MCAD is the no-brainer for management. It is the one that absolutely should be included in an expanded newborn screening program.

At our first appointment at CHEO's genetics clinic, I presented the specialist with the facts that I had learned. He confirmed the information was correct. He then went on to mention sickle-cell disease, which, at that time, I didn't quite understand why; of course, now I do.

I signed some release forms so that samples of our other two children could be sent to Duke University in the USA for analysis to determine if they also had MCAD. So, you see, there is testing currently being done in the US for detection of these types of disorders, but only after the fact.

1150

I also signed a release form so that the specialist could send Jenna's specimen card from when she was a newborn to Nova Scotia for screening by a tandem mass to give further validation that indeed she did have MCAD. By the end of our appointment, the specialist tried to diffuse my concerns about the lack of newborn screening for rare disorders by telling me they were working on it with the Ministry of Health.

I left the appointment dismayed that something so common sense could go so wrong and that our child had paid such a high price. However, I thought, considering all the key decision-makers knew about this issue and that they were working on it, surely this kind of needless tragedy would not happen to another child. Of course, I've learned that this is not the case. This is still ongoing. Children are still dying to this day from MCAD and from the other disorders that are detectable via a comprehensive newborn screening program.

I went home and kept researching about MCAD and newborn screening in Canada. After making various enquiries, I soon learned that some provinces in Canada were screening for MCAD at the time that Jenna was born. A family in Saskatchewan heard about Jenna's death and contacted me to offer up their support. Their son had recently been diagnosed with MCAD through that province's newborn screening program.

The next time I met with the specialist at Children's Hospital I mentioned that other provinces were screening for MCAD. He seemed unaware of this information. We discussed my other two children's screening results for MCAD. Thankfully, my son is a carrier and my eldest daughter is unaffected. We also discussed the results from the further screening of Jenna's PKU card. The results from Jenna's PKU card clearly indicated that if she had been screened for this disorder as a newborn, we would have known what we were dealing with right from the start. A treatment plan would have been devised and Jenna most likely would have had a healthy, normal life and she would still be here and all of us would probably not be in this room at this moment, I guess; I don't know. Hopefully that's not the case.

On the day our daughter died, we were expected to live up to a certain standard of accountability, yet the key decision-makers who knew of this issue did not have to answer to anyone.

While I am pleased that the government has recently announced the expansion of the newborn screening program, I approach this announcement with cautious optimism because the timelines were not clearly defined. Also of concern is that the announcement was not for a full, comprehensive program. The current gold standard is 50-plus disorders, and this means that some 29 disorders were excluded from the program expansion.

In closing, I'd like to say that it would seem to me that one of the main problems here is that all the parties involved with this issue lost focus of the importance of saving children's lives and putting children first, and that is what this meeting here today is all about: putting children first.

I appreciate this opportunity that I was given. Thank you.

The Chair: Thank you very much, Ms. Clark, for sharing—Chairs aren't supposed to cry; excuse me—your story and bringing your little girl alive for us here today to make this issue very real for all of us.

The next person has cancelled, so we have a little extra time here, if you feel up to answering questions.

Ms. Clark: Sure.

The Chair: Thank you.

Mr. Baird: I want to thank you for coming. I think the fact that you're championing this cause so that no other family has to go through what you've gone through is a wonderful thing.

In my 10 years here, all political parties have passed some pretty irrelevant bills. We had an Irish Heritage Day bill; I'm Irish. We passed bills to ban pit bulls. I'm not sure how many people have died from pit bulls compared to this. We passed some crazy Conservative

bills. We passed some crazy NDP bills. We passed some crazy Liberal bills.

One of the issues that it's going to come down to is that the ministry, I think, is going to do the right thing. The government wants to do the right thing. I'm very convinced of that. I think we want to do two things: (1) We want to make sure that we go as far as we can; and (2) we talked earlier about Stephen Lewis bringing in a bill in 1965. Do we want a process in place at the ministry that's good, or do we want a statute in the Ontario statutes which sets out clearly what is required, what is expected of government, what is expected of providers and what is expected of hospitals? That's the central issue we're going to have to consider when we look at debating the bill and voting on it in the House—sometime this fall, hopefully. Do we want a law on the books that will require this to happen rather than a good policy or a good practice? I think the answer is clear.

I got a copy to show committee members. This is a test done today for the two conditions. The blood goes there. We would simply have to expand that; nothing more. One piece of paper, literally, is the answer to this. We just want to make sure this never happens again.

Thank you so much not just for coming today but for being such a great advocate for so many kids out there who will never meet you, never know you and would never have known Jenna. So thank you.

Ms. Shelley Martel (Nickel Belt): Ms. Clark, I want to apologize to you. I'm the NDP health critic. I have been in the estimates for the Ministry of Health this same morning and we have just concluded. I was scheduled to sit in this committee all day today, but we ran late in that committee and so had to complete it this morning. That's why my colleague Ms. Horwath was here on my behalf, and now I'm in for the balance of the day.

I didn't hear all of the presentation, as you can appreciate. I can, however, tell from the tone in the room that it was very powerful and very compelling. It takes a tremendous amount of courage for a parent to come and share their story about the death of their child. I can't imagine what that's been like for you to do today, but I do want to say that as a member who has just come in on the tail end of it, it is very important that you had the courage to do that because it forces all of us to put at the front of our mind again what's really important, what we're here about and to have all of us really, I think, rededicate ourselves to ensuring that the screening process in the province is the best it can possibly be so that we're not letting parents and kids down. I suspect that is the feeling of all of us and all of those who heard the whole presentation, which I unfortunately was not able to.

I just want to share that with you. I don't have any questions because I think that probably none are required.

Ms. Clark: I appreciate that comment.

Mrs. Van Bommel: I just want to say thank you very much. Your story has personal meaning for me as well. I know that your family has paid a very high price. You said that Jenna paid a high price, but I think all of you have. You've been very brave in coming here today to do this, but it's important for the committee and for the government to hear that because we need to hear and be reminded of what our decisions do to our people and to our citizens. So thank you.

1200

Ms. Clark: If I may, I want to say that on September 7, when the announcement came from the ministry that they are going to be expanding for 19 disorders and that MCAD was included among them, of course I felt a moment of redemption, let's say, for Jenna. But again, no clear timelines. Every day wasted is the life of a child, if I can just press that point.

Also, although MCAD is among the list of disorders included in the expansion, some people may say, "Well, Jenna's story is no longer valid because it's now included in the expanded newborn screening program." I just wanted to say that I felt the need to say Jenna's story on behalf of other children who have died from other disorders as well that are detectable by comprehensive newborn screening programs. It's just to highlight what happens to families when they go through this kind of needless loss. Although it might be a different disease, the stories are essentially the same. This is a needless loss. As Mr. Baird has pointed out several times, this is a no-brainer.

The Chair: Thank you very much, Ms. Clark, for coming today and sharing your story.

Our 12 o'clock deputant has cancelled, so I would like to ask if the committee would like to continue if the other deputants are here. Yes? OK.

BOB FRANKFORD

The Chair: I now call upon Dr. Bob Frankford.

Good afternoon, Dr. Frankford. If you could give your name for the record; you have 15 minutes.

Dr. Bob Frankford: My name is Bob Frankford. For those who don't know me—and I see some familiar faces and some I don't know—I'm a former member of the Legislature. I'm a retired family doctor as well. I took a great deal of interest in sickle cell when I was a member here.

I wrote these notes last night and I was looking at that day's Toronto Star, where there was a headline, "Province Likely to ... Include Sickle Cell Testing," referring to the list of diseases for which there is newborn testing. I was wondering whether, by the time I got here, the policy would have been changed—not quite that quickly, but I'm glad to hear the comments from the government side, which sound very reassuring or almost certain that change is going to take place and that sickle cell is going to be included.

As a member, I got involved with sickle cell. I had contacts way back with the Sickle Cell Association of Ontario, and I would like to speak very well of them. You heard from the two presenters today and you can tell what a wealth of experience there is in that community-based organization and how much they welcome the

opportunity to finally speak about it themselves in the Legislature.

Sickle cell is a relatively common disease with considerable political and public policy possibilities for relief of suffering. In my time here between 1990 and 1995, I presented petitions and made members' statements trying to raise awareness of the disease.

Why should it be on the list for newborn testing? Well, as you have heard, it's a common genetic disorder. Sickle cell occurs particularly in the black Afro-Caribbean population, of whom up to 10% carry the gene. Carrying the single gene itself causes no problems, but when this is the case in both parents the chances of having a child with the disease is one in four. Screening of newborns is quite cheap, and the figure of $2 per test has been given.

It has also been pointed out that newborn screening is routine across 99% of the United States. Interestingly, sickle cell has been on the public legislative agenda since 1971. It was President Richard Nixon who approved legislation that produced research, treatment and screening. As in Canada, the federal government there can take a lead in health care but does not actually implement programs. Sickle cell has not been an issue for government either at the federal or provincial level.

An important and frequently cited study appeared in the New England Journal of Medicine in June 1986. It was a double-blind study of administering babies and infants under three with prophylactic penicillin. The study was terminated early because it clearly demonstrated deaths in the children not receiving the drug. The authors recommended newborn screening and penicillin prophylaxis by the age of four months. This is not a guideline that is in place in Ontario.

The justification for newborn screening is that early detection will make a difference. Metabolic disorders may require special diets or expensive drugs. Sickle detection enables carers to know disease is there and to anticipate crises and complications. In one of the petitions that I presented, the request was that penicillin should be considered an essential drug and be routinely available to all. One might compare the cost of some of the highly specialized drugs, which are certainly needed for some of the very rare disorders, and contrast with the very low cost of penicillin and how effective that spending would be.

Health Canada and other levels of government, in their wisdom, are undertaking an expensive print and TV media campaign regarding primary health care. This we are told will involve teams of providers, information, access and prevention through healthy living—all very desirable—and, I would say, in many cases these things are already in existence for those sickle-cell patients and their families already linked to well-established programs in hospitals and teaching centres, some of whom are represented in the room here.

In relation to the universalization of newborn testing, there will be a need to expand such facilities for follow-up and treatment, particularly in the 905 and outlying areas where much of the growing population at risk lives. And we need to ensure that comprehensive programs with teams and prevention continue throughout an individual's lifetime and are not terminated at the age of 18 because of no longer being considered in the pediatric age group.

I look forward to the implementation of newborn sickle-cell testing, which will finally put Ontario back with what has been the practice in American states for years. There's an interesting study of federal-provincial politics documented in the book Dying in the City of the Blues: Sickle Cell Anemia and the Politics of Race and Health, which I have here, by Keith Wailoo, an American academic. Those members of the committee who may be planning to seek election at the federal level should look at the precedents south of the border and how the federal government could take a lead in setting standards for the benefit of Canadians from coast to coast. A reviewer of Wailoo's book states, " ... one overriding lesson becomes especially clear: Diseases are best treated when medical information and resources are managed and distributed by experts organized at the federal level. Local control feels like a good thing, but too often, it leads to bad medicine."

Universality is the intention of the Canada Health Act, and clear definitions in relation to vital programs would improve the lives of many Canadians—not that I am suggesting transferring everything to the federal level. The provincial ministry, as we see from the Ombudsman's latest study, which I was able to read this morning on-line, will be very diligently, I'm sure, working on how to reorganize things and to make sure that they have some clearly stated, unified objectives.

I am very proud to have been involved with this issue for a long time and I compliment the introducers of this bill and welcome the rational melding of scientific knowledge and politics. To quote: "Medicine is a social science, and politics nothing but medicine on a grand scale." That's from the imminent 19th century German physician and reformer Rudolf Virchow.

1210

As we move to universal newborn screening of treatable disorders, we must follow up and assess the outcome of what is being implemented and search for other ways of improving lives through government and public policy.

Thank you for the chance to speak this morning.

The Chair: Thank you very much, Dr. Frankford. I think we're all aware of the long-time leadership that you've taken on this issue. Thank you for coming forward today.

Are there any questions for Dr. Frankford?

Mr. Baird: First to commend you for your interest in this. Not many members, after they leave this place, come back to still push an issue, so I commend you for that leadership.

I guess the one thing to respond to you with respect to the federal government—members of the committee will know of my new interest to hold the federal government

to account perhaps more than I used to. Having said that, I don't think we really here in Ontario have much right to be telling other governments what to do, given that we have such an abysmally bad record on this. Jamaica can maybe go after the federal government, or Mississippi can go after the federal government, but I think that when we get our own house in order—as Mrs. Van Bommel said, the catchphrase is going to be "From worst to first." Once we are first, certainly in Canada, then we'll have some grounds to go to the federal government and suggest its role. Health care being a provincial responsibility, I think that provinces should take the lead. Having said that, because this is such a basic issue, there certainly would be a huge advantage to every province having a uniform high standard, and maybe when we have the best standard, we can take nationwide a definite role for public health, and for the federal government as well. So thank you.

Dr. Frankford: If I can just respond, I would advise reading this book on the American experience. It was pushed up to the federal level and, as I mentioned, President Richard Nixon brought in the first National Sickle Cell Control Act. Of course, the feds don't implement state by state, and they vary state by state. But I think still there's federal leadership there and there's federal public health. I think there is a move to strengthen federal public health here, so maybe this can all come together and it's something for you to consider.

Mr. Baird: It's a remarkable day at Queen's Park when you have Conservatives speaking well of Stephen Lewis and New Democrats speaking well of Richard Nixon. If that doesn't say that this bill is the right thing to do, I don't know what else does.

The Chair: No comment. I believe we'll move on now. Are there any other questions for Dr. Frankford? OK. Thank you very much for your presentation and your ongoing advocacy on this issue.

I would now call forward Jackie Hayes. Is Jackie Hayes here yet?

KAI GORDON-EDWARDS

The Chair: If not, is Kai Gordon-Edwards here? If you're willing to come forward early, we could hear from you now. If you could state your name for the record, you have 15 minutes.

Ms. Kai Gordon-Edwards: Good morning. My name is Kai Gordon-Edwards and I would like to speak on behalf of my son, Asaiah Edwards.

Asaiah is a vibrant, two-year-old, active little boy, born August 22, 2003. Asaiah is our second child and has proven, while still in the womb, to be his own person. As a mother, while still pregnant, I instinctively knew that there was something different about Asaiah, something special about him. At three months, October 22, 2003, our pediatrician informed us that Asaiah had sickle-cell disease type SS, and he was placed on a daily dosage of penicillin to help protect him from infection. I truly believe that if it were not for the proactive thinking of our pediatrician to request for Asaiah's umbilical cord to be tested for sickle-cell disease and other ailments, we would not have known whom to contact and how to care for Asaiah.

As parents of a seven-year-old, we were confident in our ability to care for a growing child. However, we have found that we have had to retrain ourselves in child care. We have learned to be vigilant with what many deem as the simplest things, such as a runny nose, lack of energy, and sleeping, eating and drinking patterns. We were taught these simple things through the sickle-cell clinic at the Hospital for Sick Children in Toronto.

Four months after Asaiah was diagnosed with sickle-cell disease, he was admitted to the Hospital for Sick Children for the first time with a high fever and a runny nose. If we were not aware of the protocol taught to us by the sickle-cell clinic, we would have attributed Asaiah's fever to the normal growing pains of infancy as opposed to the red flag of Asaiah's immune system being attacked or compromised.

In October 2004, we noticed that Asaiah's skin colour began to become pale and discoloured. He began to lose his vibrancy and his desire to eat or drink. He essentially became lethargic. We rushed him to the Hospital for Sick Children, where he immediately underwent several tests. Test results indicated that Asaiah would have to have an emergency blood transfusion due to a very low and dangerous drop in his hemoglobin, or blood count. Asaiah's hemoglobin sat at 57; normal levels are usually 120 or higher. He was experiencing a splenic sequestration—a crisis in the spleen. Asaiah received the first of his monthly blood transfusions.

Since being diagnosed with sickle-cell disease, Asaiah has been admitted to the Hospital for Sick Children nine times and has had 13 blood transfusions and three fibril seizures, which have led to an MRI and a referral to a neurologist. Young children with sickle-cell disease are at risk of stroke. Asaiah will undergo surgery within a few months to remove his spleen and to conduct a liver biopsy. One of the risks of Asaiah's many blood transfusions is a dangerous increase of iron in his liver, which will possibly result in another series of treatments for him.

The journey we have had with Asaiah has evolved through the initiative of one pediatrician who was experienced and vigilant enough to request the necessary tests at birth. He has been followed by a phenomenal team of doctors and nurses at the Hospital for Sick Children's sickle-cell clinic who have taught us how to care for a child with sickle-cell disease such as Asaiah. They have provided us with the tool of knowledge, empowering us with a voice to speak for our child and to request appropriate care and treatment for him. They have developed a sickle-cell passport in partnership with the Rouge Valley Centenary hospital and the Sickle Cell Association of Ontario for parents such as my husband and I to carry at all times with the important medical history of our child to prevent misdiagnoses and inappropriate transfusions

and treatments. There are many families who are not so fortunate.

Newborn screening will fill the gaps that many health care professionals have missed and will support the work of those who are aware and vigilant. For our family, Asaiah's early diagnosis has been a preventive measure that has saved him, and our family as a whole, from indescribable tragedies. Newborn screening in Ontario for sickle-cell disease will provide many parents with the opportunity to effectively care for their children and allow health care providers and professionals to provide appropriate and effective treatment to our children. With newborn screening, health facilities can save money and valued resources in the long run. One simple test could prevent many tests and needless misdiagnoses in the future.

Asaiah is extremely lucky, and we are grateful to his health care provider for educating herself regarding sickle-cell disease, for having Asaiah tested and for continually supporting us through this difficult life journey. My heart goes out to the children, individuals and families for whom sickle-cell disease was not diagnosed and who have suffered unnecessarily—physically, mentally and emotionally.

1220

The expansion of a newborn screening system that includes sickle-cell disease, thalassemia and other genetic hemoglobin abnormalities will be one step closer to a whole, inclusive, knowledgeable universal health care system.

My family and I, along with other families affected by sickle-cell disease and the Sickle Cell Association of Ontario, are requesting that no child go untreated for sickle-cell disease because newborn screening was not available. I ask all levels of government to examine the risk of not implementing a comprehensive newborn screening system. I believe that all will conclude that we cannot afford not to.

The Chair: Thank you very much for sharing your story with us today. I would ask if there are any questions or comments from any of the members.

Mr. Baird: Just a quick comment. Your experience and Asaiah's experience is just another reason on the sickle-cell side to have that testing done. So thank you very much for coming forward. It's appreciated.

The Chair: Any other comments or questions? Thank you very much for coming today. We really appreciate it.

JACKIE HAYES

The Chair: We have one more deputant left and we're ahead of schedule. I would ask if Jackie Hayes is available. Yes, she's here. Welcome, Jackie. Could you state your name for the record, and you have 15 minutes.

Ms. Jackie Hayes: I'm Jackie Hayes. I'm the mother of Brittany Hayes, an 11-year-old girl who has sickle-cell disease, Hb SC.

Born in the United Kingdom and socialized in a predominantly Caribbean community, I was very much aware of the pain and suffering endured by people diagnosed with sickle-cell disease. From an early age I, along with my companions, were informed of the necessity of blood screening to determine our sickle-cell status. In 1993, in my first trimester of pregnancy, I was tested for this disease, along other generic disorders, and the results were negative.

In June 1994, while living in Queens, New York, I gave birth to a beautiful daughter, Brittany. Two days after her birth, while she lay in an incubator, I was told that my first and only child had sickle-cell disease, Hb SC. I was tested again, along with my husband. Days later I learned that I was a carrier of the C gene and my husband was a carrier of the S gene. The news was devastating. I had observed the hopelessness and fear associated with this disease from a distance all of my life. Now I would become intimately acquainted with its unpredictable nature and its multi-systemic scope.

My daughter's first major crisis did not occur until she was four and a half years old. She spent three and a half weeks in the hospital, where she had surgery, received a blood transfusion and had a severe crisis in her left lung which required intubation. Unfortunately, I had taken her to a local hospital that was unfamiliar with the disease and the potential danger it could inflict with very little warning. Two years ago, my daughter was unable to walk unassisted because of the excruciating pain she felt in her left hip. This occurred for just under two months.

Today, Brittany continues to suffer excruciating pain, primarily in her limbs, several times a year. Four weeks ago, while on vacation in California, without warning, she began to feel pain in both of her legs. Within six hours she was unable to walk, crying out in pain. I had oral morphine, Advil, heating pads, but nothing seemed to diminish the pain. As a result, she spent five days in the local hospital in San Francisco.

I hope these very small snippets of our experience shed light to you on this difficult disease.

For me as a parent to manage and care for my daughter without the support of my family, friends and medical practitioner, and the benevolence of my employer, would be impossible. As difficult as our journey has been at times, today I sit here and feel fortunate. Why? Because I knew of Brittany's diagnosis before I left the hospital. As a result, we have taken preventive measures from the time she was three months old to ensure a better quality of life. She received penicillin and folic acid daily until she was six years old. She has also received additional immunizations, such as Prevnar, to help fight against deadly infections. A fever is never ignored; we know how deadly they can be for her. She's seen by a doctor within 24 hours of a persistent fever—preventive measures that I believe have secured a brighter future and continue to give us hope.

Newborn screening has been an empowering factor in our lives. It provided valuable and timely information, coupled with genetic counselling. We were able to make informed decisions about our future, deciding not to have

another child because we felt that the risk was just too great.

Today, the doom and gloom surrounding sickle-cell disease is gradually diminishing in the black community, primarily because of the support, research and early detection programs that continue to improve the quality of the lives of these sufferers. Brittany is a prime example. As noted earlier, she is constantly monitored by medical specialists to ensure early detection of complications which could cause the loss of eyesight, lung damage, stroke and even premature death.

In closing, recognizing the importance of one life and valuing that life makes a difference. I believe newborn screening sends that message loud and clear.

Children with sickle-cell disease need parents who are informed, proactive and engaged in their care. Early detection makes a difference. The implications for not providing this support to parents will cause significant repercussions.

Thank you for taking the time to listen to my story.

The Chair: Thank you, Ms. Hayes, for coming forward and telling us Brittany's story.

I would now ask if any of the committee members—yes, Mr. Ramal.

Mr. Ramal: Thank you for sharing the story with us. I just have a question. You said your daughter was born in the United States and you learned about the sickle-cell disease when your daughter was born.

What preventive measures are being taken in order to prevent it, since we are talking about implementing the testing to detect the disease in newborns in order to prevent it in the future, and from escalating, and then something to correct the situation of the person?

Ms. Hayes: I think there are people who are at high risk, the black community. In England, I was screened, actually, before I went to the United States, but the type that I had was not known: sickle-cell C. I don't know all the rules and how the testing and screenings are done, but typically I think people are screened for S and not C, and that's why it wasn't detected for me. But in England, I was screened. When I was pregnant, I was screened again and it wasn't detected. But when Brittany was born, she was screened with a more thorough screening and it was detected that she had SC. It's important that that is known at birth, because it prevents her from having different illnesses, and being able to take penicillin or folic acid to strengthen her body to fight against infections.

Mr. Ramal: You mean, if they learn about the disease from the beginning, for yourself and for your husband, they then would be able to prevent what happened to—

Ms. Hayes: Absolutely.

Mr. Ramal: So are you asking for extending the testing to the parents and not just for the kids?

Ms. Hayes: Absolutely. In England, that's what happened for me, and it also happened in the United States in the first trimester. But if it happens at newborn age, 20 years from now we'll have a lot more informed people.

Mr. Ramal: If you learned about your disease as a carrier, you and your husband, you would go ahead and bring Brittany to life?

1230

Ms. Hayes: I would go ahead and what?

Mr. Ramal: Get pregnant and make a choice—

Ms. Hayes: No. I would get genetic counselling. I would see what the risks are. There are different risks for different types. I'd make sure that I know what the risks are and I would be more informed on my decisions. Knowing what I know about sickle cell, I would not have had a child. But having my child, I'm very happy.

The Chair: Are there any other questions?

Thank you very much for your presentation.

That ends the time for presentations. Before we move on, I would like to take this opportunity to thank all of those who came forward to share their expertise, but particularly the parents who came forward today to share with us their stories, making this a very real issue for all the committee members. Thank you so very much.

Mr. Baird.

Mr. Baird: First, I'd like to thank everyone who presented today. I know you've all taken time out of your careers and your families to be with us, and it's much appreciated.

I also want to thank all the members of the committee. With great respect to the Chair, other than her, all the other members came from various parts of the province to be here today, and that's very much appreciated. I think this is how the Legislature is supposed to work. It's a great credit that among the three parties there were some negotiations, discussions. The opposition let some bills go through and the government agreed to have other bills to go to committee. I think too often in the past—and it's the fault of all three political parties. But when something good happens, I think this is the way it's supposed to work, and I just want to acknowledge that.

I have a motion I want to move. I've shared it with both the government and the third party this morning just so that it didn't come as a surprise. We normally undertake the clause-by-clause portion of consideration of a bill after public hearings, but I think we've learned a lot at the public hearings and I'd like an opportunity to prepare some amendments. I have some prepared already, and I'd like an opportunity for the government to have the chance to review them ahead of time, so it's not just thrown at them haphazardly.

So I would like to move that Bill 101, Health Insurance Amendment Act (Supplemental Newborn Screening), 2005, be considered for the purpose of clause-by-clause consideration of the bill at the regulations and private bills committee meeting on October 19, 2005, and that members of the committee be requested to submit amendments for consideration to the committee clerk as soon as possible so that they might be distributed.

The Chair: We have a motion on the floor.

Mrs. Van Bommel: First of all, I also want to thank all the people who have brought in deputations. I think this is a very important issue.

"Worst to first" are Minister Smitherman's words. He understands the importance of what we're doing and he wants to be sure that we move forward, and we are. He is committed to moving forward on this particular issue. We have started with 19 additional tests. We will continue to look further and wait on the advice of the advisory as to what we will be doing.

On this particular motion, I have been sitting on this committee now for—I think this is the seventh bill. I'm not sure how far—boy, it's terrible when you lose track of the time. This is a very important issue, but so have all the others been that have been before us in the last few days as a committee. I know there's agreement among the House leaders about the clause-by-clause and that sort of thing. I think at this point, this is a procedural type of motion, and I would prefer that we proceed and allow all the bills to move forward together, as they were intended to do by agreement. So I'm going to have to say that at this point I want to be fair to all—

Mr. Baird: If I could.

The Chair: Just one moment, Mr. Baird.

Mrs. Van Bommel: I want to be fair to all the presenters and sponsors of the bills that we've been hearing and the ones we haven't heard yet. There are still some to come. So at this stage, because we agreed as a committee and the subcommittee agreed that we would proceed in this way, I think I would want to stand on the subcommittee's agreement.

The Chair: Any other comments? Ms. Martel.

Ms. Martel: I apologize. I don't normally sit on this committee, so I'm not sure what agreement was made with respect to how the bills would move forward. Madam Chair, I would appreciate your comments or your intervention just to describe to me what is your understanding of the agreement about how these would all proceed, so I would have some sense of that.

The Chair: I'll hear from Mr. Baird and, in that case, I'll take a couple of minutes' recess so I can inform myself specifically. It's been some time since that agreement was made. Mr. Baird, if you'd like to proceed, and then I think all I need is a two-minute recess.

Mr. Baird: There was an agreement to allow a number of government pieces of legislation to be voted on in exchange for some public hearings on a number of private members' bills and other issues. We've had the public hearings portion of this bill and I think it's been very productive. At this time, I guess the agreement is concluded and that there was only agreement for the public hearings portion of the bill.

What I'd like to see, rather than this issue being discussed and being involved in political horse trading behind closed doors, is that we make a statement as a committee that we'd like to consider clause-by-clause of this bill. I think it would probably take an hour—60 minutes, or 75 minutes maybe. It's not a partisan issue. At the end of the day, the bill would have to be voted on in the House before it would become law, and the government will be able to make the decision on whether it chooses to call it. Obviously, a private member's bill can never pass unless the government calls it for at least third reading.

Could I find out what the other bills are before the committee so we know what we're competing with here?

The Chair: Yes. In fact, we don't need to recess. I've just been reminded by the clerk that there are seven bills, and the clerk can name all the bills in a moment. We have one left to do tomorrow. The agreement between the House leaders was that we would complete these bills and then the subcommittee of the committee would meet to talk about how to proceed with all of the bills at the end of the seven private members' bills, which will end tomorrow.

If you could please, Madam Clerk, read out the list of bills that we have deliberated and the one that's left.

The Clerk of the Committee (Ms. Tonia Grannum): Bill 123 is left for tomorrow, which is Ms. Di Cocco's bill on open public meetings. We've done Bills 58, 101—

Mr. Baird: I apologize. Bill 58 is what?

The Clerk of the Committee: That was Jean-Marc Lalonde's bill to—I don't have my notes with me. I could go get them.

The Chair: Neither do I.

Mr. Baird: I really would like to know which bill. I just don't know the numbers.

The Chair: We had the Niagara wine bill—

Mrs. Van Bommel: Bill 7 was yesterday.

Mr. Ramal: Transportation.

The Chair: Keep going. The transportation bill.

Mr. Baird: What transportation bill is that?

Mr. Ramal: Mr. O'Toole's, for the safety measurements classifications and the tax credit. And also the boat one.

The Chair: Keep it coming.

Mr. Craitor: Impaired driving while you're driving a boat.

The Chair: Oh, here we have the complete list. If the members of the public will bear with us as we go through this procedural bit here, we'll soon be done. Do you have the list, Tonia?

The Clerk of the Committee: We had Bill 137, An Act to amend the Income Tax Act to provide for a tax credit for expenses incurred in using public transit; Bill 58, the Safe Streets Act, which was Mr. Lalonde's; Bill 153, An Act in memory of Jay Lawrence and Bart Mackey to amend the Highway Traffic Act; Bill 209, An Act to amend the Highway Traffic Act with respect to the suspension of drivers' licences, which is the motorized boats one; Bill 7, which was the VQA; Bill 101 is yours today; and tomorrow is Bill 123, An Act to require that meetings of provincial and municipal boards, commissions and other public bodies be open to the public.

Mr. Baird: Thank you very much. I appreciate that information. What I want to do, as Ms. Di Cocco is seeking with Bill 123 for open public meetings, is to acknowledge publicly that this issue is important and should be dealt with at the next meeting of the committee, which is October 19, the first day the committee

will sit normally when the House resumes. This is not a partisan issue. I think this motion is a public expression that it's action, not talk, that we want to consider this bill expeditiously. I know Mr. Hudak feels very strongly about his bill with respect to Ontario wines, and there are some other bills that are obviously very important.

1240

I know, on behalf of the official opposition, we would be happy to have all of the bills go to clause-by-clause and be referred back to the committee, but I'd like to send a message to the House: I'd like to see this bill reported back to the House as expeditiously as possible, but to allow, at the same time, a fair opportunity for all members of the committee, be they the third party or the government, to reflect on what we've heard, be able to draft amendments, be able to share those amendments so we're not considering them with no notice. That's why I feel very strongly that we shouldn't lose momentum.

There's such a tide of momentum on this issue. The Ottawa Citizen has published five or 10 articles on this by Jeff Esau. The Toronto Star has really championed this issue with respect to Rob Ferguson's comments. The Ombudsman has just come out with his report yesterday, which will be tabled in the House on October 13. I just don't want to see us lose momentum, and I feel very strongly about this.

I've tried to approach this in a very non-partisan way throughout the day, and what this motion does seek to do—and I fully acknowledge it—is to put our feet to the fire. It says we won't talk about it later; we'll speak now with hopefully one voice to allow this bill to be voted on by this committee so that the House leaders can then consider it. The House leaders can't really consider it until it comes back. The deal—I have a copy of the motion—in the House was basically to send the bills to public hearings, and I acknowledge and appreciate that effort, but let's go all the way. Let's send a message to the House leaders that what we heard today is important enough to report back the bill in as reasonably and expeditious a time as possible. So I would ask all members to reflect on that.

This should not be a partisan vote. We have regularly in the House of late seen people split. So I look at the government members and beg your help on this. I have on seven occasions stood in support of government bills in the last session. Sometimes I've been the only member of my party to do so. I was just talking to Ms. Churley earlier today about Bill 183, the adoption bill. I may be the only member of the official opposition—I don't know—who stands up and votes for that government bill. So I invite you.

This is an opportunity. It's a small, minor committee procedural vote. If we don't have an opportunity for people to stand up and reflect on what we've heard today on this type of issue, we really never will on any issue. So I've tried to be non-partisan on this. I'm regularly in the House. I said I've supported government initiatives, sometimes against my own party. I hope that all members will reflect on that and be able to give a thumbs-up to what is a pretty reasonable motion.

The Chair: Ms. Martel.

Ms. Martel: I appreciate the information with respect to what your understanding is of the agreement that was made by the House leaders before the session ended, with respect to some of the bills that would carry over. So I appreciate that the understanding is that we would at least be given some opportunity to go to public hearings, and then what happened after that was essentially not sorted out. So I understand that, but I would make two comments, then, in support of Mr. Baird's motion, if I might.

The first is that in order for Bill 101 to have gotten to this stage, to be part of the trading that went back and forth with respect to what private members' bills would proceed, because mine did not, I think the government, in agreeing to at least bring this to public hearings, must have seen some value in it and must have had some sense that they wanted it to go forward in some kind of process, otherwise it wouldn't have been part of the package; it wouldn't be part of the consideration that this committee is giving with respect to public hearings over the last number of days, and again tomorrow. So I say that in order for the government to have accepted that at the outset as one of seven bills that would move forward, there must have been some inclination on the part of government to be supportive.

Secondly, of the bills that are being debated, I think—and someone's going to correct me if I'm wrong—this is the only one where the government, by its actions after agreeing that the bill go forward, has given a clear indication that it's supportive. The government, in recent weeks, has made it very clear that they will put in the funding that's necessary to increase testing, to increase the infant screening to some 21 conditions. There has been a partial timeline that has been unrolled for that. There has been some indication of the funding that will be made available. So I say that it looks like the government clearly has decided to move on this issue of infant screening, has made that very public and wants to do that.

My argument in support of the motion would be, unlike the other bills that this committee has discussed and will discuss again tomorrow, that I don't think the government has given any clear indication with respect to the other bills, either the government bills or the opposition bills, that they have the intention of moving forward themselves in the same way. So I think, from my perspective, that accords this particular bill a different status or a special status that the committee could use to support Mr. Baird's motion.

For those two reasons, the fact that the government gave the green light for this, among a number of other bills that didn't make it to the floor—the government gave this bill the green light. They must have had some support for it. Secondly, I think that support has been reinforced by the government's most recent announcements that in fact they do intend to go forward on infant screening. I think that is a much different position on the

part of the government than the other private members' bills that the committee has been considering.

I would support Mr. Baird's motion. That's good enough for me in terms of moving forward and that the committee then, at the next earliest opportunity, could move forward and deal with the government amendments, and the government could get advice from the Minister of Health, for example, about what he wants to see, what additional things he wants to see, given that he's made a commitment to move on this matter already. So I would be supportive of the motion.

The Chair: Mr. Craitor, or was it Mr. Ramal?

Mr. Craitor: I just had a couple of questions.

The Chair: Go ahead.

Mr. Craitor: I'm the new kid on the block. Whatever happened, I wasn't there when it did, and whatever didn't happen, I wasn't there. I'm just trying to help the people get it through.

Yesterday, when I was sitting at Tim Hudak's VQA bill, we finished the meeting and it was suggested by Mr. Hudak that the bill be dealt with immediately. It was explained to us that there was an agreement reached and it was coming back on the 19th, and the bills were all coming back on the 19th. We discussed that that was already arranged. So this is coming back on the 19th. Am I right or wrong? That's what was said to me yesterday, that private members' bills are coming back on the 19th.

The Clerk of the Committee: The subcommittee would have to meet and determine the order, the date and the deadline for amendments on each of these seven bills.

Mr. Craitor: So this motion is saying, "Don't do that. Just come back and go clause-by-clause." Is that what this motion is saying?

The Chair: This motion is very clearly saying to come back on the 19th to this—

Mr. Craitor: And go clause-by-clause.

The Chair: And go clause-by-clause.

Mr. Baird: Can I respond?

The Chair: Sure.

Mr. Baird: What the motion says is—I love Mr. Hudak. He's a great friend of mine. I support his bill. It's on wine. It's on whether we'll protect the name of Ontario wine.

This is on such an important issue about life and death. The government obviously sees its importance. I commend Mr. Smitherman. I commend the Premier for his comments on sickle cell. He's on board, by all accounts. But I feel so strongly about this. What this is designed to do is, rather than this just go off into Never-Never Land, that this committee say, "You know what? This is important. We learned a lot today. We want to take the time to get it right, but let's move expeditiously on considering this bill and send it back to the House, hopefully with some amendments, to deal with sickle cell, among other issues."

It's non-partisan. It's sort of giving a little helpful nudge to the House so that they can have this bill as quickly as possible.

The Chair: If I could—

Mr. Craitor: I still have the floor. Let me just—

The Chair: If I could, though, just make sure—

Mr. Craitor: No, let me have the floor.

The Chair: I'm answering your question.

Mr. Craitor: This is coming back on the 19th, no matter what we do.

Mr. Baird: The committee might not even meet on the 19th.

Mr. Craitor: Let me finish, John. Come on, now. Give me a break here. I wasn't here. If you wanted to get this thing done, it could have been done before I was ever elected. I'm on your side out there. This has been going on for years. I'm sitting here wondering what happened. If it was that important, it should have been done, and I shouldn't be sitting here having to debate this. It should have just been finished with. But I'm just trying to get it through. So on the 19th this is coming back, no matter what.

The Chair: On the 19th there will be a meeting of the subcommittee to determine the process for all seven bills, including this one. That was the agreement among the House leaders. What this motion does is choose Bill 101 to be one where we deal—

Mr. Craitor: Over all the rest.

The Chair: —with the clause-by-clause on the 19th specifically because of its importance. That is the difference.

1250

Mr. Craitor: Let me just say, then, that I sat in this room today, and I'm sure many of us around this room shed a lot of tears. I'm also going to tell you, I sat in this room last week and I was there when this gentleman spoke about his son who was killed because a drunk driver who drove a boat went through—he was on the tail end and his son died. He believed we had to get legislation through because there are still people being killed by boat drivers who are allowed to drive when they're impaired. You don't need a license. He wants to change all that. To that gentleman and to all the other people who spoke who had lost family members, that was important. When I sat in that room, it was important to me how you get it through as quickly as possible.

I guess I'm just saying that we want to get this through. You weren't here in the room when this other gentleman spoke, and he was just as passionate. He wants to get his bill through and he's been working on it for years. So the objective here is, how do we get it through as quickly as possible? But to just jump one over another, that doesn't seem quite fair to the other groups who were in here as well.

We're coming back on the 19th and the committee decides what the order is. They could decide this will be the number one and then it just proceeds on, is that right?

The Chair: Could I say that there is no reason why, notwithstanding the agreement by the House leaders, the subcommittee couldn't meet in the meantime to determine the dates.

Mr. Craitor: To recommend that this will be the first bill?

The Chair: The subcommittee can meet at any time. The scheduled meeting for the committee is the 19th, so the subcommittee can meet at any time to start the determination of the clause-by-clause for these bills.

Mr. Craitor: So that bill could then be recommended as being the first one to be dealt with, and then we get on with it.

The Chair: Absolutely, within a subcommittee, yes. It would be brought forward to the committee on the 19th.

Mr. Craitor: In the meantime, we've added 19 to the list already, from what I understand. We've added 19 tests to the list that already exists.

The Chair: I believe so. Mr. Baird, go ahead.

Mr. Baird: Just to be clear: There is no agreement with respect to the clause-by-clause; there was only agreement by the three parties to have these seven bills come for public hearings. So there's no agreement among the three parties to go any further.

The committee's regularly scheduled meeting date is October 19. Generally committees, more often than not, don't meet on their regularly scheduled days unless there is something that has been put on the agenda. The subcommittee can definitely meet, no problem at all, and ask that this bill or any other bill come before the committee on October 19. It also might not. What I'd like to do is, rather than hoping it goes well at the subcommittee—and that meeting won't be in here, it will be within closed doors among the three parties—we say that we support this going to clause-by-clause at an expeditious date and that it can be reported back to the House.

I think you make a very good point with respect to Bill 209, with respect to impaired driving and boating safety. This is a one-page bill, and half of it is in French, so it's really a half-page bill. There are only three clauses in the bill, so clause-by-clause would be very expeditious. I think in that same committee meeting, we could consider Bill 209 as well. I'd be very happy to move an amendment to the motion that Bill 101, the Health Insurance Amendment Act, 2005, and Bill 209, which is the impaired driving motion that you mentioned, Mr. Craitor, be considered for the purpose of clause-by-clause on the 19th. That would deal with both issues, which are, as you acknowledged, very serious life-and-death issues.

Obviously the wine issue, while very important for economic development, not just to the Niagara region but the whole province—no one's going to die if we don't declare a rule about wines. So I'd be very happy to have Mr. Zimmer's bill on impaired driving considered as well.

The Chair: OK, so we now have an amendment to the motion before us. Before you speak, I think we should read out the amendment. The amendment now says, "I move that Bill 101 and Bill 209 be considered for...."

Mrs. Van Bommel.

Mrs. Van Bommel: We talked earlier about momentum, that there's momentum here, and there definitely is. There's no question about it. This is an issue that has been important to our government for a long time. As you acknowledged earlier, Dwight Duncan brought this forward back in 2003, and there's no denying the importance of this.

What I think, though, is that this bill already has one advantage over all the other bills that this standing committee is hearing, and that is the fact that the government has already started to take action on it. We're already moving forward. You talk in your bill about MCAD and the TMS process. The government has already acknowledged that and is moving forward on those things, so there's an advantage your bill has that none of the others have at this point.

Since the sponsors of the others haven't made this kind of request of the committee, I think we need to be fair in our approach and go with the process that was originally agreed to, which was that we would do the hearings, and the subcommittee would get together and make determinations after that. I think we need to move with that.

Mr. Baird: In fairness, there's no agreement with respect to the subcommittee prioritizing the bills afterward. That's never been part of the discussion. I have the motion that Mr. Duncan presented in the House authorizing the committee to sit today and it makes no reference with respect to clause-by-clause. I want to give a helpful nudge, a push to make sure this doesn't fall off the radar screen.

Mrs. Van Bommel: It hasn't.

Mr. Baird: I heard today from Ms. Clark probably the most passionate presentation I've heard in my 10 years here, and I just don't want this to fall off the radar screen. I don't want to see it dealt with as political horsemanship and horse trading. I'd like this committee to say that this is really important. We have the ability to do that, to say, "You know what? The government obviously feels this is a priority." It's almost like the government says, "We're going to put a belt on," and we say, "Well, could you put suspenders on, too?" "No, no, we don't need it. It doesn't matter." "Well, put the suspenders on, then."

If the government's going to do this, then there can't be any objection to wanting to have the committee consider it. At the end of the day, the government will be in the driver's seat as to whether they call it for third reading. That's properly so, I don't deny that, but this is a life-or-death issue with respect to the bill. They're running out of the materials to be able to conduct these tests in six months, so something has to happen very quickly. I just don't want to see this train leave the station with the 19 conditions that they've announced and leave the sickle-cell car sitting on the track at the station. Frankly, I know George Smitherman doesn't want that either. I really do.

The Chair: Ms. Martel, and then I'm going to try, as a neutral Chair, to make a suggestion that might help us along here.

Ms. Martel: I apologize, then, if I cause a problem for you, Madam Chair. I would only add this, if I might, for the benefit of the government members: It seems that if we work with the amendment to the amendment that Mr. Baird has proposed, then the government has a private

member's bill that moves forward and the opposition has a private member's bill that moves forward.

I was here for the presentation last week as well. It was very compelling. The only difference between the two—because both were a reflection of enormous personal tragedy on the part of parents—and it may be a small one, is that in the case of this bill, the government has publicly signalled its intention. I do not see the same with respect to the bill put forward by Mr. Zimmer. I have not heard the Minister of Transportation or another government minister indicate how the government feels or how they are prepared to move. That's the only difference I see, because both were very compelling.

In the second proposal that has come forward, I see that an important government private member's bill that has affected a parent would be dealt with at the earliest possible opportunity, and an important private member's bill by an opposition member that deals with parents and children, to try to stop the tragedy that has occurred, would also be dealt with. I see that as a win-win for everybody. Frankly, at the end of the day, Mr. Baird is right: The government will still have the final decision about what happens after clause-by-clause, so that control is still there in the hands of the government.

1300

The Chair: Go ahead, Mr. Ramal.

Mr. Ramal: Thank you, Madam Chair. I've been listening to all the presentations and to Mr. Baird and Ms. Martel talking about the urgency of forwarding this bill as soon as possible. As a member of the government and as a person elected not a long time ago—and I heard all the deputations and all the people speaking about it—I believe that this issue is very important to our government. That's why the Premier talked about it and that's why the Minister of Health is trying to speak about it as much as possible, in order to apply it to all the hospitals across the province of Ontario. It's very important to our government and to our party. That's why Mr. Dwight Duncan, the Minister of Energy today, brought it to life in 2003 in order to be implemented and to be applied in all the hospitals across the province—it's been rejected.

I listened to many deputants. This is the first time ever this bill went to public hearings. We're only talking about some kinds of technicalities in order to forward all the bills and deal with it in terms of order.

As you know—I'm going to mention for the record—it's very important to me. I've listened to a lot of people. It's very important to our government and we want to see it done not today, but yesterday. But we don't want to fight over a matter of a couple of weeks' time. People have been waiting since 1965, so I think just a couple of weeks' time is not going to make a difference at all to the people in this province who are suffering.

I agree that we don't want to be trying to politically hijack any issues. We believe in it. The Premier agreed 100%, and the issue is very important to us. Also, the Minister of Health ordered all the specialists in this area to go forward. It's just a matter of time to implement it in a professional way. That's what I see.

As Mr. Craitor mentioned a few minutes ago, if it was important to all the parties before us, why hadn't it been dealt with in the past? We just got elected two years ago, and since we learned and heard about it, we forwarded it, we talked about it, we want to implement it, and we want it to see light and want to also protect the children of this province.

We believe it's not just about protecting the children; it's about protecting our futures and maintaining our health care and saving a lot of families across the province from crises. We believe that the kids are valuable to their parents and valuable to the government and to our society. I think it's a very important issue for us, and I would like the third party and the opposition party to stick with the agreement and the procedure and we can go forward—

Mr. Baird: There is no agreement, though—

Mr. Ramal: OK, whatever—stick with the procedure. We don't want to just keep fighting in front of the wonderful people who came from different parts of the province in order to talk to us. I would tell them that I'm 100% in support of the issue, I'm 100% behind it and I think it should be done, and we are going to do it.

Mr. Baird: Then pass the motion.

The Chair: Mr. Baird, if you'd like the floor again. Hopefully, if we cannot find a resolution to this, we'll take a vote soon.

Mr. Baird: I think too often this place doesn't work. In my 10 years—and I blame the Conservatives just as much as the Liberals and just as much as the NDP. We've all been very bad actors.

As an opposition member, I have tried. I have voted for many government bills. I have split from my party, the majority of my party, many, many times to stand up for what I think is right. When the government does something that's good, I stand up and say that it's good. I've defended the government. They're now closing three institutions for developmental disabilities and I speak up publicly and defend the government. They're bringing in Bill 183 on adoption disclosure. I voted in favour of it, against the vast majority of my caucus. I may be the only one who votes for it. I voted for seven government bills, and I'd like to see just once, even on a little technical issue—as government members, you can vote. Ms. Van Bommel is ably representing the government. This can be an issue. We'll see when the vote takes place whether everyone lines up behind the government line.

If you don't want to consider it on October 19, would you consider it on October 26? Would you consider it on November 2, November 9, just something so that it can get debated on? I just don't want to see this shuffled under the carpet, and that's what happened. The committee may not even meet on October 19. It doesn't have to meet, unless the subcommittee agrees to it. I'd like to see us, the committee, give a little helpful nudge to Bill 101.

I say to Mr. Ramal, I'm not going to look at the past and say, "Gee, I blame Frances Lankin for not getting back on returning the letter of the Sickle Cell Associ-

ation," or "I blame Tony Clement for not acting on this, or John Baird when he was minister of children," or say, "Dalton McGuinty's government took two years to address this issue." There's some gathering momentum. Let's fan that flame of the fire that's starting to spread on this issue and get this bill debated. I just don't want to see it go and let politics—and I've tried on every occasion to be as non-partisan and constructive as I can on this issue. I have.

The Chair: Are we ready to take the vote? Go ahead.

Mr. Brownell: There seems to be, I won't say an impasse on this, but comments were made about the importance of the subcommittee, that subcommittees can make decisions, and that if this motion that's on the table didn't fly today, tomorrow the subcommittee could meet or anybody could meet from that subcommittee and make a decision that on the 19th this does go to clause-by-clause.

I don't know who's on the subcommittee. I'm subbed into this committee today. I had some time and took on the subbing-in. I'm just wondering if there would be a chance that the subcommittee—because this is important. We had compelling evidence today. We had wonderful testimonies today from individuals who gave very heart-wrenching stories. But all the while, I think we have seen the movement of this government to add 19, with the commitment from the minister of going "from worst to first." That in itself is certainly evidence that there's going to be something done here.

With regard to having the clause-by-clause, could we in the next few minutes just take a recess and have the subcommittee—I don't know who's on the subcommittee—get together and have a discussion on it, and then come back and have their presentation to us?

The Chair: We have one more bill to consider tomorrow. I don't know if, in taking a recess right now, we can find the Conservative subcommittee member to do that. I certainly don't object—

Mr. Baird: I think that's a very constructive suggestion.

The Chair: Pardon me?

Mr. Baird: I think it's a very constructive suggestion, and I'd be happy to represent the official opposition on the subcommittee. Would you, Ms. Martel?

The Chair: If everybody' s in agreement, we will take a 10-minute recess.

Mr. Brownell: It is my understanding—I just want to be clear—with the honourable member's motion here, or his bill, that it's on the 19th that the House leaders get together. Is that correct?

The Chair: No, it's the—

Mr. Brownell: Or the subcommittee.

The Chair: The committee actually meets. This committee meets again on the 19th.

Mr. Baird: It can meet. It doesn't necessarily have to meet.

The Chair: Well, that's right. It doesn't necessarily have to meet, but that is the scheduled date for the meeting, as I understand it. So the subs for the subcommittee can meet now, if we could take a 10-minute recess and reconvene the committee.

Mr. Baird: I want to thank you, Mr. Brownell. That's a very constructive suggestion.

The Chair: Thank you very much.

Mr. Brownell: I look at this as being—we had all this evidence today. Around this table, as my good member from Niagara said, there were a lot of tears; absolutely the tears welled up and whatnot. I think that, as a sub on to this committee today, if the chance is that tomorrow, or after the last bill, the subcommittee could get together and say, "OK. This is number one on the 19th"—

The Chair: Were you suggesting—and there seems to be agreement—that we have the subcommittee meeting now?

Mr. Brownell: Exactly.

The Chair: OK. Let's do that, then. So we'll take a 10-minute recess. If those representing the parties would please stay behind, and we'll have a quick meeting.

The committee recessed from 1308 to 1322.

The Chair: We're going to call the meeting to order just for a moment. Somebody took my gavel. If I could have committee members reconvene, please.

After some deliberation among the subbed-in subcommittee, we haven't reached a solution yet. I can tell all committee members that each party is trying to work in good faith to resolve this. What we're going to do—and I apologize to those who are in the audience here—is take a longer recess and reconvene at 2 o'clock. So I will call this meeting recessed until 2 o'clock, when we will reconvene to further discuss the motion before us. Thank you.

The committee recessed from 1323 to 1406.

The Chair: I call the standing committee on regulations and private bills back to order. We had recessed to consider an amendment before us. We're going to reconvene when Mr. Baird, who I believe had the floor, is ready to do so.

Mr. Baird, we're going to pick up where we left off. We were dealing with your amendment. If people are ready to take a vote, we will vote first on the amendment to the amendment.

Mr. Baird: Would it be better just to have one motion? I could just move the main motion so that there's only one vote. Would that be easier?

The Chair: Sure. So you'll include Bill 209 as part of it.

Mr. Baird: Yes. I'll withdraw both of those motions—

The Chair: OK. That makes sense. Could you do that, then?

Mr. Baird: I move that Bill 101, the Health Insurance Amendment Act, and Bill 209 be considered for the purpose of clause-by-clause consideration at the regulations and private bills committee meeting on October 19, 2005, and that members of the committee be requested to submit amendments for consideration to the committee clerk as soon as possible.

I would not debate it.

The Chair: Now we just have one motion. Are we ready to take the vote on this motion from Mr. Baird?

Mr. Baird: Recorded vote.

Ayes

Baird, Martel.

Nays

Brownell, Craitor, Marsales, Ramal, Van Bommel.

The Chair: The motion is defeated.

Mrs. Van Bommel: I recognize how important this whole matter is not only to the people in this room but to all the families and the parents in this province. In light of that, I would like to move a motion.

I move that the committee request that the three House leaders give priority to Bill 101, An Act to amend the Health Insurance Act.

The Chair: Any discussion on the motion? Mr. Baird.

Mr. Baird: This obviously doesn't go nearly as far as I'd like, but I appreciate the genuine willingness to fairly consider the issue. It may be not as much as I'd like, but I appreciate it. I know it's a difficult issue, so thank you.

The Chair: Further comments? All right, we'll take the vote.

Mr. Baird: Recorded vote.

Ayes

Baird, Brownell, Craitor, Marsales, Martel, Ramal, Van Bommel.

The Chair: The motion is carried.

I believe that brings us to the end of the meeting. Thank you very much.

The committee adjourned at 1409.

CONTENTS

Wednesday 28 September 2005

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Chair / Présidente
Ms. Marilyn Churley (Toronto–Danforth ND)

Vice-Chair / Vice-Président
Mr. Tony C. Wong (Markham L)

Mr. Gilles Bisson (Timmins–James Bay / Timmins–Baie James ND)
Ms. Marilyn Churley (Toronto–Danforth ND)
Mr. Kim Craitor (Niagara Falls L)
Mr. Kuldip Kular (Bramalea–Gore–Malton–Springdale L)
Mr. Gerry Martiniuk (Cambridge PC)
Mr. Bill Murdoch (Bruce–Grey–Owen Sound PC)
Mr. Khalil Ramal (London–Fanshawe L)
Mrs. Maria Van Bommel (Lambton–Kent–Middlesex L)
Mr. Tony C. Wong (Markham L)

Substitutions / Membres remplaçants
Mr. John R. Baird (Nepean–Carleton PC)
Mr. Jim Brownell (Stormont–Dundas–Charlottenburgh L)
Ms. Andrea Horwath (Hamilton East / Hamilton-Est ND)
Ms. Judy Marsales (Hamilton West / Hamilton-Ouest L)
Ms. Shelley Martel (Nickel Belt ND)

Clerk / Greffière
Ms. Tonia Grannum

Clerk pro tem / Greffier par intérim
Mr. Douglas Arnott

Staff / Personnel
Ms. Carrie Hull, research officer,
Research and Information Services

T-17

ISSN 1180-4319

Legislative Assembly
of Ontario

First Intersession, 38th Parliament

Assemblée législative
de l'Ontario

Première intersession, 38e législature

Official Report of Debates (Hansard)

Thursday 29 September 2005

Journal des débats (Hansard)

Jeudi 29 septembre 2005

Standing committee on regulations and private bills

Comité permanent des règlements et des projets de loi d'intérêt privé

Transparency in Public Matters Act, 2005

Loi de 2005 sur la transparence des questions d'intérêt public

Chair: Marilyn Churley
Clerk: Tonia Grannum

Présidente : Marilyn Churley
Greffière : Tonia Grannum

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

http://www.ontla.on.ca/

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Copies of Hansard

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

Exemplaires du Journal

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Thursday 29 September 2005

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Jeudi 29 septembre 2005

The committee met at 0936 in committee room 1.

TRANSPARENCY IN PUBLIC MATTERS ACT, 2005

LOI DE 2005 SUR LA TRANSPARENCE DES QUESTIONS D'INTÉRÊT PUBLIC

Consideration of Bill 123, An Act to require that meetings of provincial and municipal boards, commissions and other public bodies be open to the public / Projet de loi 123, Loi exigeant que les réunions des commissions et conseils provinciaux et municipaux et d'autres organismes publics soient ouvertes au public.

The Vice-Chair (Mr. Tony C. Wong): Good morning, ladies and gentlemen. I call the meeting to order. This is the standing committee on regulations and private bills. We are dealing with Bill 123, An Act to require that meetings of provincial and municipal boards, commissions and other public bodies be open to the public. I call upon the sponsor of the bill, MPP Caroline Di Cocco.

Ms. Caroline Di Cocco (Sarnia–Lambton): Thank you, Chair. I believe I have 15 minutes, is it, Chair?

The Vice-Chair: That's correct.

Ms. Di Cocco: Thank you. It's a pleasure to be here and to be able to speak to the intent of my bill, to the reason why it was established, and also to provide some rationale as to why we need this and some evidence to support that.

This bill designates certain public bodies to give reasonable notice of meetings to the public, and it ensures that meetings are open to the public. The public may be excluded if matters specified in the bill are being discussed. The public body is required to give notice of in camera meetings and also to keep minutes and publish them after being adopted. The minutes, of course, are for the open sessions. The bill, though, establishes a procedure—and this is what is missing in some of the current acts—for complaint to the Information and Privacy Commissioner if a person believes that the designated public body has contravened the open meeting rules. The commissioner is empowered to review the complaint and investigate, and a penalty and fine has been established for the times that it may be found that a body has contravened the act and has been found guilty.

I presented this bill when I was in opposition and I present it again now that we have formed the government. The reason this came about is from the lessons that I learned during a seven-year quest to get at the truth about decisions that were made between a school board and a former municipality. As a parent, I had dealt with the fact that my son's grade 11 class didn't have chemistry textbooks because of a financial crunch. That was in the late 1980s. Then in 1991, I learned that the same school board had purchased land at exorbitant rates, much higher than market value. In my attempt to understand how and why these decisions were arrived at, I called the director for an explanation. When he returned my call, he categorically told me that it was no concern of mine; basically, that it was none of my business.

For me, as an ordinary citizen, that was my first experience at questioning a public body, and the response, I have to tell you, shocked me. I had believed, maybe somewhat naively, that as a parent and as a taxpayer I had the right to know. When I look back, I think it was that response that probably changed my life and maybe even led me here as an MPP.

In moving forward to understand the decision-making process, I learned that this particular decision was not reported in public, and neither was how the decision was arrived at by the town of Clearwater. It took seven years of work and a quest for a judicial inquiry into the matter that went all the way to the Supreme Court of Canada. By the way, it was that ruling from the Supreme Court of Canada that also clarified and allowed Toronto to have the MFP inquiry just recently.

I was amazed to learn that although there are bylaws and there's an Education Act and a Municipal Act, the open meeting guidelines have no mechanism to investigate or apply penalties and, in fact, I learned through those seven years that it really appeared to be on an honour basis.

There's a lot of evidence that supports the need to clearly put in place this legislation. The report and findings from the Clearwater inquiry state:

"Finally, there is much to be condemned in the secrecy with which the council plotted and carried out their strategies over the period from early 1989 down to the very closing of the Parklands sale in April 1990. They kept the restructuring and implementation committees in the dark at times when it was clear that candour and openness should have been the order of the day."

Justice Gordon Killeen went on to write, "I am profoundly disturbed by the cloak of secrecy the board used to hide this transaction from its closing stages and down through the years to 1995 when, through the press ... and the complaints of a small number of obviously concerned electors and ratepayers, the board was finally forced to acknowledge what had happened."

The report recommended that, consistent with this bill under discussion today, public bodies big and small across Ontario create a clear and public record of their meetings to which the public and interest groups may have access after the event.

He goes on to say, "Councils prepare and maintain proper minutes, resolutions and bylaws." The report's final recommendation singles out school boards, advising that school boards must pass resolutions at an open public meeting, approving of and disclosing the details of transactions after the date on which the transaction has closed.

I have that report. It's right here, Chair. It's quite a large one. I don't have copies for everyone, but if that what the committee wants, I'll certainly provide it, if you so choose.

Most currently, we have the Bellamy recommendations. One of the things it advises is that city councils should take steps to enhance the openness of meetings. They go on to talk about openness, and there was one aspect to the report that said the mayor should report to the public annually, a concept that can and should be applied to all municipalities in the province.

One entire section of the recommendations outlines how greater openness can be achieved and is consistent with the spirit of this bill. The section specifically suggests, for instance that when it comes to procurements, they be carried out in a fair and open manner.

I don't want to go through all of the items in the Bellamy report, but numbers 146, 147, 148 and 149 really talk about more transparency in how the business of the public is being conducted.

Another source of support that I certainly have had is from the Information and Privacy Commissioner. In her report in 2003, she spoke about the need to change the culture, the need to now raise the bar on openness and transparency, that it is an expectation. Last year she recommended that the Ontario government introduce a comprehensive open meetings law, and goes on to note that Bill 123 would fulfill such a role.

I know that I've had much support for this bill. There are many people I've heard from across the province. I've heard stories that are very similar to the one that I experienced, that they were unable to obtain information and get access in decision-making. I believe that sometimes it can be too convenient to go in camera without any mechanism to ensure that there is some kind of an investigative opportunity to be able to see whether or not they have met the guidelines or the rules to go in camera.

Besides the findings from the inquiry, there are many, many cases which have come to light—and certainly some that I know of—for instance, some municipalities where councillors have given themselves raises in camera and their decision has never been made public, and school boards—I think there have even been a couple of court cases—where they've actually been taken to court by parents because they've made decisions on closing schools but have not provided adequate information or have made the decisions in camera. I don't have the time to list the number of very specific cases that certainly have come to light over the last six years when I initially presented this legislation.

I want to clarify: I'm certainly going to bring forward some amendments to this bill which will be put before the committee for a vote in the next few weeks. The intent is to encompass decision-making bodies only, and not regulatory or advisory bodies. There was a disconnect, I guess, between the spirit that I intended and then the legalese or the legal writing that went on. So there will be no regulatory or advisory bodies. Specifically, this bill is going to include only hospital boards, school boards and municipalities.

Other amendments are going to include—there was a mistake in the meeting minutes—the provision that meeting minutes will only be made public after they're adopted. In the bill it said, "before adopted." I think that was just an error there. As well, a mechanism to allow items to be adopted to meeting agendas in an emergency or urgent situation after reasonable notice has been given: That wasn't included, and I felt that that's important.

We're probably going to hear some arguments today that this bill is unnecessary, and some may even interpret it as punitive or believe that this bill may duplicate legislation that already exists. Although I've listened to and have heard these arguments in the past, I believe that the status quo is not good enough and that there is need to improve transparency in public decision-making. This type of legislation is in place in several jurisdictions in the United States. Michigan has had an Open Meetings Act in place since 1976. As a matter of fact, I took some of the aspects of the open meeting act from similar acts in other jurisdictions.

The other benefit that I foresee coming from this legislation is that lots of times we have a suspicion that continues after the general public has been excluded from closed-door meetings. In my view, if you have a way to be able to have an independent person actually investigate whether or not the body had every right to go in camera, it would alleviate that suspicion if, for instance, the ruling from the Information and Privacy Commissioner would be, "Do you know what? This public body had every right to go in camera." It takes away that cloud of suspicion that continues after you know that there have been in camera meetings for many, many hours.

I believe that the time is right. The purpose of this bill is certainly not a punitive measure; the purpose of this bill is to assist in enhancing the public scrutiny that should be part and parcel of our daily decision-making.

0950

I look forward to hearing from the many presenters today, both those who support the bill and those who are

opposed to the bill. Openness and transparency are the order of the day and are what is expected by the people whom these bodies serve.

I don't know how much time I have, but—

The Vice-Chair: I think your time is almost up, Ms. Di Cocco.

Ms. Di Cocco: All right. Thank you very much. I look forward to hearing the submissions.

The Vice-Chair: Thank you very much. It's actually the turn for the official opposition, but they don't have a member here, so I'll call upon the third party. Ms. Martel.

Ms. Shelley Martel (Nickel Belt): I'd like to actually ask Ms. Di Cocco two questions for clarification with respect to the amendments and then just make a brief comment after that, if I may be able to do that.

The Vice-Chair: Ordinarily, I don't think there is time for the sponsor of the bill to answer questions.

Ms. Martel: No, it will be very short. It's with respect to the amendments.

The Vice-Chair: There will be an opportunity for the government to make their statement, and maybe at that time Ms. Di Cocco can respond.

Ms. Martel: I think that I can do this within the five minutes that has been allotted to me to make a statement. I'm sure that I can get it done within there.

The Vice-Chair: OK.

Ms. Martel: Thanks, Mr. Chair.

Very quickly, the three amendments: (1) The bill will only apply to hospital boards, school boards and municipalities; (2) minutes made public only after adopted; and the third was—

Ms. Di Cocco: The third one: for instance, it says to have an agenda of what is being discussed ahead of time. In some cases, in emergency situations or some of the other areas when you need to call a meeting immediately—there is an amendment there that would allow for a mechanism so that you can have an emergency meeting if it's required etc.

Ms. Martel: Thank you. Secondly, what happens, then, to meetings of the board of governors at universities?

Ms. Di Cocco: I felt at the beginning of this process that those were the three that I had initially intended. The issue of universities: I know that they're going to be governed also under FOI. But to begin the process, I felt that I should simplify it so that it isn't so overarching that the privacy commissioner and the work that she would have to do doesn't become overwhelming. It's a start, and that's why I made the decision that I should make it simpler rather than broader right now.

Ms. Martel: Just a point on that: The government, I think, has brought forward some provisions for having universities subject to FOI under its own act that hasn't been passed. My colleague Mr. Marchese has a private member's bill in that regard. It's not clear to me, even if FOI applies, that meetings in some of these institutions may or may not become more open to the public, and I really think they should be much more open to the public than they are in some cases. So I just leave that point.

In conclusion, I was part of the public accounts committee that dealt with this in 2001 and was part of the public hearings, and indicated our support in principle for the bill at that time. My position remains the same. I understand there will be concerns that will be reflected here today, and I look forward to those being reflected. But I do think, in principle, we do need to be moving to a situation where important discussions that do take place involving small and large sums of money in our public bodies—those meetings need to be much more open and transparent than they have been, in some cases, to date. I support the bill in principle, as I did when we debated it in public accounts in November 2001.

The Vice-Chair: Thank you, Ms. Martel. Government statement, Ms. Di Cocco.

Ms. Di Cocco: Yes. Thank you for that. I probably feel very passionate about increasing the transparency with which public business is done. From the many discussions that I've had with agencies or individuals over the last number of years, it actually seems to be, in some cases, getting worse, this acceptance of going in camera, because it becomes more convenient.

Again, the bill is certainly not perfect, as no bill is, and there's always room for improvement. But I think the bill reflects the era in which we live when it comes to our democracy, when it comes to a society that has access to all types of information. On those bodies that particularly are effecting or making decisions and have the responsibility to ensure that the public is aware of what decisions are being made that are impacting them and how their dollars are being spent, I believe it just needs to have some strengthening and the bar has to be raised.

One of the comments made by the Information and Privacy Commissioner was, "This bill captures many of the principles that are key to an effective and meaningful open meetings law. We are pleased that a number of senior cabinet ministers and opposition politicians have expressed support for the bill, which has the potential to transform Ontario into one of the leading jurisdictions in North America when it comes to open, transparent and accountable government."

Again, I look to the Information and Privacy Commissioner as someone who has the responsibility of doing two things: of protecting privacy, but also ensuring openness. This bill is my attempt to make a difference in the province of Ontario. From the lessons that I learned going on, I would say, about 14 years—I'm trying to think how long it's been; I would say for 14 years. In the seven years that I pursued the quest to get information and accurate answers, I probably came out of my naïveté very quickly. I shouldn't say quickly: over seven years. I'd always made the assumptions, "I'm the parent and I'm the taxpayer." Somebody else is making those decisions. I had no interest except to make sure that my children were getting a good education. To my surprise, I was told I had no right to the information that I was requesting, and it was basically very simple: "Why didn't we have textbooks in the chemistry class?" and, "Why could you afford to spend all this money here?" It opened

up for me this learning experience that at the end of the day culminated in a judicial inquiry and culminated in the development of this bill when I became a member of provincial Parliament.

So I bring this bill to this committee with that kind of, if you want, profound depth of commitment.

The Vice-Chair: Thank you, Ms. Di Cocco. Mr. Craitor, would you like to make a comment?

Mr. Kim Craitor (Niagara Falls): I would. Thank you, Chair.

First, just quickly, I want to congratulate my colleague for bringing the bill forward. Certainly I'm going to support it, but I've indicated to my colleague that I really want to see the bill go much further. I'm one of those who truly believe that there has to be much more openness and accountability. I spent 12 years on city council. There were many times I questioned our own council, why we were going into committee, and was overruled. There was no process for me as a councillor to take that forward unless I wanted to go public with it. So I think the bill is certainly needed, but, as I said, I'd like to see it expanded. I can think of some agencies within my own community, like the Niagara Parks Commission, the Niagara Health System, Niagara Falls Hydro Electric Commission. Those apply throughout the province, and I'd certainly like to see all of them covered as well.

I just wanted to congratulate my colleague and indicate that I'll be putting forward amendments to expand the bill to cover even more agencies and commissions within Ontario.

The Vice-Chair: Ladies and gentlemen, we have a number of deputations today. Just for your information, each group will have up to 15 minutes for their presentation and questions, if there's time left, and each individual will have 10 minutes for that.

1000

COLLEGE OF MEDICAL RADIATION TECHNOLOGISTS OF ONTARIO

The Vice-Chair: The first deputant is the College of Medical Radiation Technologists of Ontario. Please come forward. Welcome, and please identify yourselves.

Ms. Sharon Saberton: Good morning. My name is Sharon Saberton and I'm the registrar at the College of Medical Radiation Technologists of Ontario. With me today is Debbie Tarshis from WeirFoulds, who is our legal counsel. Thank you very much for giving us this opportunity to make a submission.

The College of Medical Radiation Technologists of Ontario, known as the CMRTO, is the regulatory body for medical radiation technologists in Ontario. We have approximately 5,800 members. Our regulatory authority comes from the Regulated Health Professions Act, 1991—RHPA—and the Medical Radiation Technology Act, 1991. Our mandate is to serve and protect the public interest through self-regulation of the profession of medical radiation technology. The operations of the CMRTO are funded from fees paid by our members.

CMRTO understands that the purpose of Bill 123 is to require designated public bodies, as listed in the schedule to the bill, and their committees, to hold meetings which are open to the public, to make minutes of meetings available to the public, and to set rules respecting public notice of council meetings and meetings of its committees. It is provided that the bill and any regulations made under it will prevail over any other act or regulations. The general purpose of the bill is to ensure that these bodies are accountable to the public.

CMRTO also understands that Ms. Caroline Di Cocco, the member of provincial Parliament who tabled Bill 123, intends to file a motion amending Bill 123 such that the health regulatory colleges would be excluded from Bill 123. CMRTO supports the motion, for the reasons set out below.

(1) CMRTO supports the principle of openness in order to achieve accountability, but this principle must be applied in the context of the statutory duties of the relevant body and balanced with other applicable principles so that such body can meet its statutory obligations. For health regulatory colleges, this balance has been struck in the existing legislation governing the colleges—that is, the Regulated Health Professions Act—by having the council meetings of the colleges open to the public and by having its committee meetings, other than hearings of the discipline committee, closed to the public. CMRTO and the other health regulatory colleges should not be governed by Bill 123, because openness of their council meetings is already required by the RHPA, and to extend the principle to committees would impair the colleges' ability to carry out their specific statutory obligations.

(2) An independent review of the RHPA, the legislation governing the health regulatory colleges, including an extensive consultation process, was completed by the Health Professions Regulatory Advisory Council, HPRAC, in 2001. In February 2005, the Minister of Health and Long-Term Care requested HPRAC to conduct a further review in order to consider the currency of and any additions to HPRAC's recommendations in 2001. HPRAC's updated report, which will consider the principle of accountability and the legislative objective of making health regulatory colleges accountable to the public, is to be provided to the minister in 2006. Making certain piecemeal amendments to the RHPA through the enactment of Bill 123 would undermine the review process that is in the process of being carried out by HPRAC.

Our recommendation is that the health regulatory colleges should not be defined as designated public bodies under Bill 123. CMRTO supports the motion to amend Bill 123 by excluding the health regulatory colleges from it.

Thank you very much for this opportunity to make the submission and advise you of our concerns and recommendations.

The Vice-Chair: Thank you. Questions and comments from the government?

Ms. Di Cocco: It was not the intent to have this put in the bill. One of the things that happens with our technology—it was unintended that it should be on that list, and so it certainly will be removed, because it's something I had learned. I have submitted two bills. There was a copy of a previous list that somehow got included in the bill tabled in the House. I did not read through, thinking there were some changes but that it was not a part of it. I just didn't read through all the details at the very end. I had assumed there was a list there. I'm just being very candid about the unfortunate—because regulatory bodies were not in the spirit of what I was trying to do. I wanted decision-making bodies that were funded by taxpayer dollars and, to begin with, some of the three that I had mentioned before. So I thank you for clarifying what your position was, and why, and also that you support the amendment.

Ms. Martel: Ms. Saberton, I think the last time we saw you was before the committee in 2001 on this very same issue. Nice to see you again.

You've heard Ms. Di Cocco say that they have regulated colleges that are not going to be included. I just had some questions, because we're not debating that issue any more. The discipline committee of the college, like other colleges, I assume, is open to the public, and then the general council would be essentially the—"governor" is probably not the word I'm looking for; or maybe it is the word I'm looking for. So when you say the council meetings of the college are open, annual meetings with respect to policies, procedures and budgeting are also open, correct?

Ms. Debbie Tarshis: The council is the board of directors of the college and, yes, they are open to the public. There is an obligation to give reasonable notice of the council meetings to members and to the public. There is some basis, not dissimilar to the basis in Bill 123, on which a council meeting can be closed to the public.

Discipline committee hearings: Again, the general requirement is for them to be open to the public, but there are certain specific grounds for them to be closed to the public, such as if the safety of a person is at risk, that kind of thing.

Ms. Martel: How is notice provided?

Ms. Saberton: What we're doing now is working with the Federation of Health Regulatory Colleges, and we are publishing the advertisement at each quarter of all of our council meetings in both English and French.

Ms. Martel: When the HPRAC made recommendations in 2001—I wouldn't pretend to know what they were—were there any recommendations with respect to transparency or accountability?

Ms. Tarshis: The areas that the recommendations focused on were another aspect of the college's mandate, and that is that each of the colleges has a register of its members which is available to the public, or certain portions of it are available to the public. So some of the recommendations focused on the aspects of the register that should be available to the public. There were over 67 recommendations. Hopefully my memory is serving me well. I don't believe there were any specific recommendations that were addressing open council meetings.

Ms. Martel: Do you know, in terms of the work that the HPRAC is doing now: Is that a specific focus of the review that's going on now?

Ms. Tarshis: It's very much in midstream. It's too early to say, other than that the scope of the referral was to both address the currency of the 2001 recommendations and make any additions. But it really is in midstream. There's been no documentation from HPRAC at this stage that would give any indication of the direction.

Ms. Martel: One final question, if I might: Does the college receive complaints from the public about access to meetings?

Ms. Tarshis: No.

Ms. Martel: People, if they want to hear what's going on, are content to attend the council meeting, or people who are particularly affected by an item going on before the discipline committee can attend that as well. That seems to cover everybody's concerns.

Ms. Saberton: That, and we take care to make sure that the public and the members know what is going on with council through our publications. But absolutely, people who call and have any questions about a council meeting are always invited to come.

The Vice-Chair: Thank you very much.

Our next deputant is the Royal College of Dental Surgeons of Ontario. Do we have anyone from the Royal College of Dental Surgeons of Ontario? If not, then I call upon the Ontario Medical Association. Anyone from the Ontario Medical Association? They're actually scheduled for 10:30, so maybe they will arrive later.

We're going to take a 10-minute recess at this time.

The committee recessed from 1010 to 1022.

ONTARIO MEDICAL ASSOCIATION

The Vice-Chair: Ladies and gentlemen, we are back in session. I call upon the Ontario Medical Association.

Welcome, and please identify yourselves.

Dr. Greg Flynn: My name is Dr. Greg Flynn and I'm the current president of the Ontario Medical Association. On my right—your left—is Mr. Steven Harrison from our policy department. Also on my left—your right—is Barb LeBlanc.

The Vice-Chair: You have up to 15 minutes for your presentation and questions.

Dr. Flynn: I'm Greg Flynn, and with my staff today I'm delighted to be able to give you some feedback and some of our advice with respect to Bill 123. I'm a practising pathologist, hospital-based. I have been in practice in Ontario hospitals since 1992.

We have prepared a brief, which I'm sure you've all had a chance to review. We make some recommendations regarding a number of aspects of the proposed law, including the definition of "meeting," the health professions appeal and review board and the effects this proposed act may have on LHINs—local health integration networks—and family health teams in Ontario. I

am going to focus my time with you this morning, however, on the inclusion of the medical advisory committees as public bodies under Bill 123. I'm only going to spend a few minutes on my remarks and then I'll try to answer questions, if you have them.

Every public hospital in Ontario has a medical advisory committee. They serve a number of very important functions within a hospital. Most importantly, the medical advisory committee is a bridge between the physician members of the hospital staff, many of whom are independent contractors, and the board of trustees, who have a fiduciary responsibility and a duty for the quality of care delivered in those institutions. The medical advisory committee makes recommendations, not decisions, to the hospital's board of trustees. They make recommendations with respect to the appointments and reappointments of medical staff. As part of that reappointment process, the medical advisory committee does some things that might be considered performance appraisal in most organizations. Reviewing the performance of physicians who are up for annual reappointment is one of the core functions of the medical advisory committee.

The medical advisory committee is also responsible for the quality of care delivered by the medical staff and monitors that quality of care on an ongoing basis for the board.

Medical advisory committees are comprised of appointed physicians, usually chiefs of service and chiefs of departments, and members of the elected medical staff organizations. Certain other senior hospital administrators are usually entitled to attend these meetings, but they are not members.

Medical advisory committees are closed to the medical staff at large. A medical advisory committee receives reports from all the medical departments and committees, including discipline committees, and these matters are often sensitive, at times controversial and, in many circumstances, confidentiality is of an essence, because these issues are being presented sometimes at an early stage. Premature release and circulation of those types of discussions would not be helpful. Indeed, one might imagine that such release and discussion outside of the medical advisory committee would inhibit the sort of quality activities that are required.

The mechanisms used by medical advisory committees to ensure quality are varied; however, most of them at some time involve detailed review of individual physicians and possibly patient information. Having this information open to the public would be in direct conflict with our existing laws and ethics regarding patient privacy. In addition, they would have significant repercussions for hospitals' ability to engage in effective quality improvement and medical disciplinary action, since you would never get the level of candour required if the meetings were open.

In hospitals throughout Ontario, the medical advisory committee and its various subcommittees, as well as other structures, gather information about care, including where things have gone wrong, in order to assess the processes and systems overall. The essence of quality improvement requires candour, frank discussion and case-by-case analysis, and we have been moving away from an atmosphere of shame and blame in our hospitals and we wish to improve our clinical performance. However, opening this up to the public and press would undermine the candour and stifle discussion. I believe it would ultimately result in new structures outside of the MAC being developed to handle sensitive issues.

In short, the OMA recommends that hospital medical advisories are not public bodies and should be listed in the exempted bodies under subsection 5(2) of the proposed bill. We believe that their inclusion in the Transparency in Public Matters Act, 2005, would cripple hospitals' ability to engage in meaningful quality improvement activities.

That's the end of my prepared remarks. I'd be happy to answer any questions.

The Vice-Chair: Thank you, Dr. Flynn.

Members, I'm going to go by rotation for comments and questions.

Mr. Bill Murdoch (Bruce–Grey–Owen Sound): I don't have any right now because I've been sitting—I wonder why traffic is so bad down here for you guys—

The Vice-Chair: Let me go to Ms. Martel.

Ms. Martel: Nice to meet you, Dr. Flynn. I'm not sure if we'll have enough time to get around the rotation, but earlier in the discussion Ms. Di Cocco, the mover of the bill, indicated that she would be bringing forward amendments that would exclude regulatory and advisory bodies from the provisions of the bill, which should deal with the concerns you have raised in your presentation. She will, I'm sure, tell everybody again that it's her intention that the provisions of the bill with respect to open meetings apply to school boards and municipalities. We have stated our support in principle for the bill to move forward if those other bodies are exempted, specifically regulatory and advisory bodies, like the one you just mentioned.

We heard a great deal in public hearings on this bill in 2001, when similar concerns were raised both by regulatory and advisory bodies at the time. I think those concerns are legitimate and believe that the bodies that have been mentioned, including your own as you've described here in terms of medical advisory committees, should be exempt from this bill. There are certainly issues that are raised there that should not be available for public disclosure; it would be inappropriate. I don't think anyone—at least in terms of our party—would be arguing for that to occur.

1030

Dr. Flynn: Thank you very much. Just in brief response, I am aware that Madam Di Cocco has made some proposed amendments, and we would support those.

The Vice-Chair: The government: first Ms. Di Cocco and then Mrs. Van Bommel.

Ms. Di Cocco: I just do want to reiterate that it's unfortunate that the schedule in Bill 123 included what I

had not intended to be included. I certainly became aware of it very early on—unfortunately, it was already tabled—and went about beginning the process of getting the amendments written up. Advisory bodies and regulatory bodies will not be a part of that list.

Mrs. Maria Van Bommel (Lambton–Kent–Middlesex): Thank you very much for making your presentation. Just as a matter of information, how do you select the membership of the MAC? Is it open to all doctors? What process do you use for the selection of MAC members?

Dr. Flynn: The board of a hospital generally looks at the Public Hospitals Act. The Public Hospitals Act defines a number of people who must be on the medical advisory committee, and then they can add some. I've been a member of probably six different medical advisory committees in hospitals in Ontario. There is some variability on who is there, but typically it's chaired by the chief of staff of the hospital, who is an employee of the hospital and reports to the board. The chiefs of departments or chiefs of programs, if the hospital runs on a program basis—a medical program, a surgical program, maternal child care often have program directors who will sit on the MAC, and usually heads of clinical services. I typically sit on the medical advisory committee as the chief of laboratory medicine. There is some variability in who sits there, but in general, they are the administrative leaders of the various disciplines within the hospital.

Typically, as well, there will be at least one or maybe two members of the elected medical staff association. Their responsibility is to liaise with the medical staff at large and at medical advisory committee to represent the interests of those broader members of the medical community in that hospital.

Mrs. Van Bommel: Thank you.

The Vice-Chair: Mr. Murdoch, do you have any comments or questions to the deputant?

Mr. Murdoch: No, I think I'll let them go this time—or maybe I will ask. What amendment did you say you made?

Ms. Di Cocco: As you were caught in traffic, the amendments that I've put forward are these. One is that the public bodies that are going to be included in the bill, in the schedule, are hospital boards—the decision-making hospital board—municipal councils and school boards, so those three decision-making bodies.

The other one is that there was an error in the language in the bill about minutes, saying that after minutes are adopted they should be made publicly accessible. In it, it had "before" they were adopted, which didn't make sense. I think it was just a language error.

The other piece is about the need to possibly have an emergency meeting—urgent matters, for instance—so there is a way to be able to do that, either with two thirds of the vote—anyway, it will be defined. Right now, you have to give appropriate notice before a meeting.

Those are the three amendments that I'm certainly proposing. I'm sure there will be others, coming forward.

Mr. Murdoch: So if they were passed and adopted, it wouldn't affect the group that's here right now, the group that's in front of us right now.

Ms. Di Cocco: Exactly. I tried to clarify that by contacting each of the groups ahead of time as well to make sure that they understood, but of course it's good that they're here making a submission and talking to us.

Mr. Murdoch: Yes, and to verify your amendments. It'll help you with that.

Ms. Di Cocco: Yes.

Mr. Murdoch: OK. That's all.

BRIDGEPOINT HOSPITAL
PROVIDENCE HEALTHCARE

The Vice-Chair: The next deputant is WeirFoulds LLP, Barristers and Solicitors. Please come forward. Welcome. You have up to 15 minutes for your presentation and questions. Please identify yourselves.

Mr. William Ross: Thank you. My name is William Ross. I'm with WeirFoulds and I'm here to represent Bridgepoint Hospital and Providence Healthcare. With me is Marian Walsh, the chief executive officer of Bridgepoint Hospital, and Mary Beth Montcalm, the chief executive officer of Providence Healthcare. We appreciate very much the opportunity to address this committee today. I've passed out a written submission. I don't propose to read it. I only propose to speak to some of the highlights, and then the three of us are here to answer questions consequent upon what I might say.

Bill 123 is about public accountability. Bridgepoint and Providence are both supportive of the concept of public accountability. So it's not accountability with which we take issue, but rather the mechanisms being proposed by the bill to support that principle.

The bill requires that all meetings—I'm sorry. I hear there's an amendment removing boards of directors from the requirement?

Ms. Di Cocco: No. It's advisory and regulatory bodies. But the decision-making body, which is the board of a hospital, would be included in the bill.

Mr. Ross: Would be included?

Ms. Di Cocco: Yes.

Mr. Ross: OK. And all of its committees?

Ms. Di Cocco: It would be the board of directors, governors, trustees or commissions, because those are under the Hospital Act—again, this is the legal advice. That is what could constitute a board.

Mr. Ross: I'll speak to the bill as it is, because I might have trouble understanding the amendments without having studied them. I appreciate that.

As the bill currently stands, it requires that all meetings of boards and committees be open to the public, even if they're held electronically, that reasonable notice containing a clear and comprehensive agenda be made available to the public, and the public dissemination of minutes. It's designed to provide oversight to the Information and Privacy Commissioner and is also to provide a means for the public to oversee meetings of hospitals.

We believe that all these requirements will be detrimental to public hospitals, and I'll explain why.

Hospitals are already accountable to the public. They're accountable through the Ministry of Health and Long-Term Care, which has extensive powers to regulate hospitals and deal with all their major decision-making powers. They're overseen by the ministry and by the minister. We think this provides good protection to the public. To create a separate level of accountability is redundant and counterproductive.

The core responsibility of a hospital is to endeavour to ensure that the hospital provides a high quality of patient care. These proposed changes will distract the board and make the board less capable of performing those duties.

The notification issues are serious ones. It is not practical or appropriate to make available to the public in a publicly accessible location the detailed information which often accompanies notices of meetings of boards and committees. The same applies to the minutes. If too much is deleted from a notice or from the minutes, this could lead to a claim against the hospital and the voiding of decisions made at that meeting. If too little information is deleted, it could lead to other claims against the hospital or be in itself detrimental.

1040

It's a terribly difficult decision to decide what's appropriate to delete, what is confidential and what is not, and the bases provided in the bill for exclusion are not adequate. Indeed, I don't think any enumerated basis could be. I've just come from a meeting involving 20 senior securities lawyers dealing with the issue of when a matter is confidential and when it should be disclosed to the public for timely disclosure, and when a matter becomes such a sufficient degree of certainty that it should be disclosed. Amongst those 20 lawyers, there were probably 40 different views. That's the problem that'll be faced by boards and committees with every decision: whether or not to exclude information.

The requirement to permit an indeterminate number of people to participate creates issues with respect to the size of the meeting room and, with phone-in meetings, creates further difficulties. One could conceive of a situation such as SARS arising, where there's a need to have a meeting on a short basis at which serious decisions have to be taken. Those are the very meetings at which it is most likely that a large part of the public would want to attend. Does the hospital need to postpone a meeting because there isn't enough room for those attending? Does the hospital need to incur the expense of securing a meeting room adequate to house all those that might be interested in taking part?

In summary, the rules respecting meetings will make each meeting a potential source of litigation and constrain deliberations. Meetings will become less effective, more expensive and it will be more difficult for a hospital to operate efficiently. In addition, there will be costs that the hospitals don't have at the moment. It'll be necessary to hire a dedicated individual solely to endeavour to cause the hospital to comply with Bill 123. This will create a new expense at a time when hospitals are being asked to reduce expenses.

Finally, there's the issue of candour. Members of boards and committees will be constrained from speaking openly for fear of disclosing issues that might be harmful to the hospital. The more strangers there are at any meeting, the more circumspect a speaker becomes. The ability to speak openly is an important factor in securing the best possible decision. I'd compare it to meetings of cabinet and Parliament: The Legislative Assembly meetings are open to the public and cabinet meetings are private and their decisions usually become publicly known, but the way those decisions are reached is often kept confidential. That's important in reaching the right decision.

In conclusion, we believe that adequate mechanisms now exist for public accountability. We believe Bill 123 will hinder hospitals and their leadership from fulfilling their core role of providing quality health care to the public.

Those are my remarks, and I'd be happy to answer any questions.

The Vice-Chair: Thank you, Mr. Ross. Members, I'm going to start with Mr. Murdoch.

Mr. Murdoch: Are your board meetings not open now, when you have a full board meeting?

Mr. Ross: In the case of Providence, the meetings are open to the public; in the case of Bridgepoint, they're not. It's an individual hospital decision. It's also the hospital's decision to decide when that meeting will cease to be open to the public.

Mr. Murdoch: OK. I think a lot of your subcommittees are only advisory anyway, so I wouldn't think they're going to be under this bill if we get an amendment through.

Ms. Mary Walsh: I guess it depends on what the definition of "advisory" will be in the amendment, because the MAC, as an example, which the OMA just addressed, is actually a subcommittee of the board of directors. I don't know if one would say that since committees do not make decisions but rather make recommendations, they will all be considered advisory, and the MAC is no different than any other committee of the board in that regard. It is not a regulatory body under legislation, such as the bodies covered under the Regulated Health Professions Act; it is a subcommittee of the board that advises the board. But so is the quality of patient care committee: It's a subcommittee of the board. It advises the board, it makes recommendations, but it doesn't make decisions.

Obviously, some of the disclosure issues required under this piece of legislation are directly contrary to the public hospitals' protection-of-information act that allows subcommittees of MACs and others to actually do audits of the quality of care in hospitals and recognizes the requirement in law and otherwise to protect the privacy of those matters so that we don't end up with inappropriate litigations and things being disclosed through committees of boards and in the public domain in boards

that are more appropriately dealt with in the courts than through the regulatory processes. So this is a very complicated matter because, as hospitals, our core business is the health care of the individuals we serve.

Mr. Murdoch: I guess the bill has all good intentions; that's why we have these hearings, and we're going to hear all day, probably, a lot of concerns. I'm sure that Caroline will have a lot of amendments and then we'll have to talk about them.

Ms. Martel: Would you think that one way to determine who will have the open public meeting would be to say that those committees that only make recommendations are excluded, and the body that makes the final decisions, which would normally be the hospital board itself, would be the one where this bill would apply? Would that make sense?

Ms. Mary Beth Montcalm: In my experience, there are times when a board considers very sensitive issues and may or may not pursue a course that is discussed. To have that discussion in public at an early stage could be very counterproductive to the good management of the hospital.

In our own case, without wanting to disclose the subject matter, our board has been in discussion for about six to eight months on an issue which has changed over time. Had the early discussions been made public, I would have to say that management of the hospital would have been extremely difficult for me over the past few months. Issues change. The health sector is a very dynamic one, it's a very fluid one, and boards have to be able to have that kind of conversation in candour and I believe with appropriate opportunity to have an in camera discussion when issues are delicate. I could not foresee a board functioning appropriately without that opportunity.

Mr. Murdoch: Does this not leave room to have in camera sessions?

Ms. Walsh: No. The legislation, as it's currently proposed, says that all matters, as I understand it, that a board—now, I heard Ms. Di Cocco say that there would be some provisions or potential amendments.

Ms. Di Cocco: There are a number of provisions for in camera that are in the bill; certainly a good list of them, I believe.

Ms. Walsh: Right.

Mr. Ross: My concern, as I said briefly in my remarks, is that we appreciate there is a list, but unfortunately the sort of issues that come up that the hospital believes are in its interest to keep confidential cannot be put in an enumerated list. They come from a variety of places, and to make it effective, you have to trust the hospital to exercise good faith. If public meetings are held—in the hospital's discretion, if they decide that something is sensitive and the public needs to be excluded, then they can exclude the public. If that were there, such a soft test, with trust to the hospital, bearing in mind that they are publicly regulated, that would probably work.

Ms. Walsh: Yes.

Ms. Martel: If I might, I'm looking at the list and I'm finding it hard to imagine, outside of the list, what other grounds there would be for a hospital to move into an in camera meeting. You're talking about excluding the public if there are "financial, personal or other matters" that may be disclosed where it might affect an individual; "a person involved in a civil or criminal proceeding"; that "the safety of a person may be jeopardized"; "personnel matters"; "negotiations or anticipated negotiations" between a public body and a person, bargaining agent or party to a proceeding; any litigation. That's a pretty extensive list, from my perspective, of reasons to be given to a hospital board to move in camera, which frankly should cover the waterfront.

I've got to tell you, I'm a little concerned about what I'm hearing. You've got one participant that has open meetings and another hospital that doesn't. Maybe you can tell us, do you have to hire an extra person just to manage your meetings? Do you have to worry about security when you have a public meeting? Do you have to spend the whole day running around trying to find a bigger room on the chance that there will be lots of members of the public?

1050

I just feel that these are reasons that are not very legitimate, from my personal perspective, to not hold a public meeting, especially when you take into account that we are talking about a public hospital that may have—well, half the public hospitals in the province have budgets over $100 million. That's a significant amount of money. I think the public should be entitled to come and participate at a meeting or hear some of those decisions being made.

I wouldn't say that, as a member of my community, I would have to go to the Ministry of Health in my riding to get that kind of information about decisions being made by my hospital; I don't think that's appropriate. The board is there to represent the community, and the community should be allowed to come and hear what's going on.

Ms. Walsh: First of all, I would say a couple of things. I think that none of us are able to fully anticipate what the future may bring in relation to items that may or may not be sensitive. I think there's nothing wrong with the list as it stands, but leaving the provision also for some judgment on the part of the hospital board to be able to determine, should some future condition arise, is not an unreasonable request, we would say. It's important, obviously, to the appropriate conduct of the business of a board. I don't know that any of us can foresee the future in its finite glory.

That's really our issue. It's not that we're suggesting that those aren't appropriate conditions, but I'm not sure that something might not arise that would cause our board to say, "There's an issue around risk or protection of people, the public," or some other entity that we don't know yet that may not be covered by that bill. If you try to create a finite list, that becomes problematic, so some judgment is all we're requesting.

The second issue, I think, is that this is obviously a matter of significant public policy. It is the question of what the mechanism is that the government and you as representatives of the government, the Legislature, will agree on as the appropriate way for hospitals to be held accountable to the public. Nobody is arguing that public accountability isn't an appropriate mechanism. So I think the question before this committee and before the Legislature is not so much the detail as one of, do we believe that the current mechanisms—which are the Minister of Health, the elected, official representative of the people, and the members of the Legislature—are those, and that it's through that legislative and elected mechanism that we actually hold public bodies accountable, or is that directly in relation to the entity that is operational?

That being the case, today we have a whole variety of ways that boards get elected. Some of them are elected from their local communities, some of them are appointed, and so on. So I think this kind of discussion around what the means are—is it through the regulatory means that we have today—the Commitment to Medicare Act, the privacy legislation that's in place, the regulatory mechanisms that govern hospitals, the Public Hospitals Act—or other things? That's the question.

Mrs. Van Bommel: Thank you very much for your presentation. I'm just going to say right out front that I am a past chair of a hospital board, and of a hospital board that had public meetings. It was part of our bylaws.

I think one of the strengths of the hospital board is that public accountability issue and that openness. There are provinces where there are no hospital boards. The hospital reports directly to their minister, and there is no such opportunity. The reason we have, as I say, the strengths is the fact that these are public bodies that are accountable to the public. It's an opportunity for local input and community input into the hospital.

We've been through public meetings. They're very quiet until something controversial happens, and then the room fills up. It does mean more work for the management of the hospital, no question about it, but I think in terms of accountability we still need to have that opportunity to have public input. I really support having open meetings at the board level. I've been through it and I know what it can be like, but I think I would do it again.

Ms. Walsh: I don't think fundamentally we disagree with that. It's just the provisions of the bill as they stand today.

Ms. Di Cocco: I understand, certainly from the legal advice that you have with you today, that there's a notion that this creates the scenario of a great deal of litigation. That certainly isn't the intent.

Let's look at school boards. They're governed by the province as well, to some degree, but they're autonomous in dealing with the issues locally, and they have provisions for some openness. Hospital boards, I believe, have the same responsibility to the public.

I guess I'm going to agree to disagree with the concept that the openness makes it very difficult to make decisions, because I think that the responsibility of public entities such as hospital boards, given the leeway that is provided for—when it comes to delicate situations or protection of privacies, etc., I believe that is something that is respected in the province of Ontario, and there's legislation that protects that as well. It's this movement to what I believe is expected in how decision-making is arrived at and why the public should have a right to that information.

We have here—I guess if I include Mrs. Van Bommel—three different styles of decision-making: two public, one not public. The question is: If you're an autonomous entity in your community, isn't it to the benefit of the board to move the community along with them in the decisions that are affecting them, and also not to have this cloud of suspicion because things are being done in secret?

Ms. Walsh: First of all, I think that we don't "cloud" and do things in secret. We have our annual meetings open to the public. We do very significant public consultation so that when we have a matter that is of significant import, either for the people we serve or the community that we're a part of, we engage those people in an informed discussion around that particular matter. It isn't that we haven't had public meetings because we absolutely don't believe in them; that's not the case. I think what's at issue here is not just the meetings of the board, but every committee in relation to every single decision. That's what the bill is proposing, and that is what we're opposed to. It's the mechanism, not the concept of public participation.

The Vice-Chair: Thank you. Members, we've actually gone three minutes over time. Do we have unanimous consent to continue?

Ms. Martel: I'd ask for unanimous consent, because I did ask a question to one of the presenters about how things work in her—

The Chair: OK. We do. Continue.

Ms. Montcalm: If I may speak, then, briefly: We do have open board meetings, but I'm not absolutely clear on the status of the amendments. So I apologize if I'm not current on the actual thinking with regard to the legislation, but to the degree that there's an addition of advertising committee meetings, posting of minutes with great regularity—actually, it's very difficult to set up committee meetings, because boards are very busy people and it's often very fluid. To try to add a fair bit of administrative support—I will have to add staff, and we've been instructed by the Ministry of Health and Long-Term Care to first find savings in administration. We've just gone through a budget process of reducing administrative support in order to balance our books. If there are onerous requirements in terms of posting of minutes, advertising of meetings, very careful legal recording of meetings that are even greater than we currently have, there will be costs. There's no question about that.

Mr. Ross: There's also, on the litigation side, if I just might add this, that the more the process is complicated the more there are grounds for people to complain. Not

everybody complains for proper motives. A person can go to the privacy commissioner and an investigation can be started. Even if the hospital is successful in defending that investigation, it's going to have a great cost.

One would think that the privacy commissioner might reject complaints that are off the wall, but I could tell you an example in a different context where a hospital I acted for had a patient who claimed after an operation that the hospital had implanted a device in his head which allowed the hospital to read his mind, and he went to the Ontario Human Rights Commission complaining that his human rights had been violated. The commissioner, instead of, as I would have thought, telling him, "Thank you very much; have a nice day," actually wrote a letter to the hospital and did an investigation. They had to retain me to represent them. It was ludicrous, but nonetheless we had to go through the cost and expense. So these things will happen.

The Vice-Chair: Mr. Craitor, very quickly.

Mr. Craitor: Thanks for your presentation. It just reinforces that this is a good bill. I think more agencies should be added to it. You've convinced me that we're doing the right thing, so thank you very much.

1100

BERNADETTE SECCO

The Vice-Chair: Our next deputant is the Fresh Air Coalition.

Welcome, and please identify yourself.

Ms. Bernadette Secco: Just for clarification, I am the executive director of Fresh Air Coalition and it's on my e-mail address, but I am here to represent myself today.

The Vice-Chair: I'm sorry—you're not representing the coalition?

Ms. Secco: No.

The Vice-Chair: If that is the case, then you will only have 10 minutes, because each individual has 10 minutes and an association, 15.

Ms. Secco: Thank you.

To the Chair, members of the committee, staff and members of the public, thank you for the opportunity to present to this committee today. My name is Bernadette Secco. I am a resident of Niagara Falls, Ontario, and I am here as an Ontario taxpayer.

This is the fourth time that a bill for transparency and accountability of public boards has been introduced at Queen's Park. Public bodies are protesting that their own rules make them transparent but that being publicly accountable will cause them difficulties or limit the frankness of their discussions. In my opinion, this is nothing more than self-serving rhetoric. If you legislate it, they will comply.

The intention of Bill 123 is most worthy and exemplary because it seeks to right a wrong. I would like to present four points for your consideration.

It is a dangerous irony that the title of the bill to make public matters transparent is itself imprecise and deceptive. By your own terms of reference, the language of a bill should be expressed in precise and unambiguous language. This should also apply to the titles.

Neither the short title, Transparency in Public Matters Act, nor An Act to require that meetings of provincial and municipal boards, commissions and other public bodies be open to the public accurately reflects the contents of Bill 123. Both titles suggest that all boards and commissions are included in the bill, but Bill 123 will not be all-inclusive; it will be a limited bill. That is why the title should clearly indicate that it is an act that requires that the meetings of only a few, select boards be open to the public.

You may have heard that something as simple as changing the title will wreak havoc. This would only be temporary. I believe that not changing the title will wreak greater havoc, because 123 will become known by its title, and I do not believe that the government wants to deceive the members of Ontario.

Limiting the public bodies under Bill 123 entrenches secrecy in all the public bodies and commissions that are excluded. This is not transparency in public matters; it is transparency for a chosen few.

Future calls to expand the list of designated bodies will be given the excuses that a transparency bill already exists; that all public bodies were studied extensively and most public bodies were found to have special reasons preventing public scrutiny of their meetings.

In my opinion, passing Bill 123 with a limited schedule of public bodies entrenches secrecy and provides the legal weapon for the indefinite exclusion of all other public bodies.

All commissions should be open, transparent and accountable—simple. In Niagara Falls, commissions are an important part of our economy, workplace, landscape and comfort. The Niagara Parks Commission, Niagara Falls Bridge Commission and Niagara Falls Hydro Electric Commission: These major commissions are all excluded from Bill 123's present situation, yet their combined operating budgets equal the amount of money that disappeared in Adscam—almost a quarter of a billion dollars. Why should these commissions not be publicly accountable?

The budget for the Niagara Parks Commission alone is greater than the budget for the entire city of Niagara Falls, but this board of political appointees governing this public asset does not allow the media or the public to attend their meetings or access its minutes.

Excluding these three commissions makes a mockery of transparency and appears to legislate the creation of little kingdoms in Ontario which will not be subject to scrutiny. Should Bill 123 allow this to happen?

The Ontario Lottery and Gaming Corp. is a major player in Niagara Falls and has an operating budget of $5.7 billion. It will not make public the details of OLGC's contract with the casino management company, even though promised developments have not, and apparently will not, be delivered—to the detriment of the city and this province. Secrecy around a contract made on behalf of the people of Ontario should not be allowed in a

democracy that has a provincial-transparency-in-public-matters bill.

The question before this committee is no different than with sharia law. The answer is: one province, one law. If transparency and accountability are more valuable than political expediency, the will must be found to pass a bill that applies to all public bodies that meet at least one of the following criteria:

—the board consists of one or more political appointees;

—the board manages a public asset;

—it operates using provincial or municipal funding;

—it provides services to children, the elderly or the sick; or

—it provides services to more than one region in Ontario.

In conclusion, I ask that you:

—remember, at the very least, the title of Bill 123 should clearly reflect its limited content;

—carefully word limited schedules so that they do not provide a legal weapon for the indefinite exclusion of all other public bodies; and

—keep in mind that a limited schedule entrenches secrecy and creates little kingdoms subject to no public scrutiny, and that, in an ideal world, to truly benefit Ontario, a transparency bill should include all public bodies.

The Vice-Chair: Members, there are only three minutes left. That will be one minute per party, so be brief with your remarks.

Mr. Craitor: Thanks, Bernadette. First, it's a long trip from Niagara to come up here, and I really appreciate it. I think it's important for the committee to hear the views out of Niagara, which are my views as well.

I said earlier that my intent is to not only leave the bill intact, but to add to it, because I am one of those who believe that any body that uses taxpayers' dollars has to be fully open and accountable. I've sat on city council; I've sat on hospital boards; I've sat on them all, so I know what's involved.

I just want to say thanks, because it's significant that everyone hears that there's a public and how they feel.

I would just quickly say, Chair, that as a provincial member of Parliament I was astonished—and my colleague Caroline mentioned it, for example—at the Niagara Parks Commission. I thought I'd go in there and sit in on one of their board meetings, because there was an issue. I found out I couldn't do it. I was shocked to find that out.

The Niagara health system, which controls all our hospitals: The public come to you as a provincial member of Parliament and ask you questions because they assume that you, as a representative, have access and can question what's going on with the health care system in your community. I was shocked to find out that as a provincial member I don't have that right; I don't have that authority. The public doesn't perceive that. They expect that you do have that. You should be giving them answers.

This is a good bill. It needs to be expanded, but I'm really pleased with it.

Mr. Murdoch: Why were they excluded? It's your bill; I'm just asking.

1110

Ms. Di Cocco: This is a start. I guess that's what I'm trying to get at. It's a start, because nothing like this has been done before where you're actually legislating rules and penalties. The reason I simplified it is so that there's an opportunity to see how it works over a period of time. That's really the reason. It's more of a practical reason.

Once a bill of this kind does become law, I think it becomes easier to incorporate that standard with agencies. As part of the executive of a former government—I think that's also a good process because then you don't have any undue consequences.

Mr. Murdoch: Yes, but let's be clear: Under the Municipal Act, there are certain regulations that municipalities have to do now. They can't necessarily have all their meetings closed. They have to open them and can only go into closed meetings under similar sorts of rules that you have here. So they are already regulated.

Ms. Di Cocco: But they don't have a mechanism, for instance, that would actually allow scrutiny in questioning whether or not they go in camera. This allows a mechanism for investigation.

Mr. Murdoch: I disagree with you there. People who can't get to a meeting in a municipality because they close them certainly go to municipal affairs pretty quickly and there's always somebody who comes in and sorts that out.

Ms. Di Cocco: Sometimes.

Mr. Murdoch: Well, OK.

Ms. Martel: I think part of the issue is, do you have to rely on another public body to get that information? In the same way we heard an earlier presenter say that the accountability mechanism of hospitals is to the Ministry of Health, I don't consider that to be an open and transparent process.

Have you tried to get information from the Niagara Parks Commission? You focused on them, so I'm curious about your relationship to the commission.

Ms. Secco: Last year, the Niagara Parks Commission announced that they had decided to build cable cars in front of Niagara Falls, and I was one person who spoke up against this. We created a worldwide petition and loud local dissension. They were adamant; they were not going to cancel their plans until they were embarrassed to do that. Had the public been involved a year earlier when they had been discussing it, we could have saved them a lot of money with our input, because they ended up cancelling it and had already expended a lot of their funding in the preliminary process for this.

The Niagara Parks Commission did not want us in then; they do not want us in now. There is a land swap that's going to happen; the Niagara Parks Commission is going to swap good parkland for contaminated land. I have no input in that.

The Niagara Falls Bridge Commission maintains that it's an international entity and is not subject to the laws of either Canada or the US and that they can do land transactions under regulations they don't have to follow like other public bodies.

Niagara Falls Hydro: They heat and light our homes and we accept that.

The Vice-Chair: Thank you.

LONDON FREE PRESS

The Vice-Chair: I call upon the next deputant, the London Free Press.

Welcome.

Mr. Paul Berton: Thank you. My name is Paul Berton. I'm the editor-in-chief of the London Free Press. I may be boasting in saying so, but we think we're the predominant newspaper in southwestern Ontario. It's about 100,000 in circulation daily.

I'm here to support the bill. I was reading a Vanity Fair article this week by the famous Watergate reporter Carl Bernstein. He quoted his now infamous or legendary editor, Ben Bradlee, who said, "It is my experience that most claims of national security are part of a campaign to avoid telling the truth."

So, with apologies to Bradlee, let me say this: It is my opinion that most claims of the necessity for closed meetings are part of a campaign to avoid telling the truth. Are public meetings closed to avoid telling the truth? Surely not. I don't think that. I don't think most of the people in this room think that, and I don't think most journalists think that. The problem is, it's the perception, and in our business a perception is often as important as reality.

I think it's human nature to try to control information, and that's fine for some organizations, but not for public organizations. When the information is paid for by the public, it hardly makes any sense. In fact, it does regularly, and it should, enrage the people paying the bills that the people they are paying will not give them information about it.

I think that Bill 123 is a good start. I agree that it could go further, but the simple way is the best way. I think it'll mean better decisions, more accountability, more public participation, a better-educated voter—and this is something we're very strong about at the London Free Press and indeed most newspapers—and, in the end, improved democracy.

I think the last point is key because anything less than Bill 123, in my opinion, would be antidemocratic. We all understand the need for closed meetings. Even journalists desperate for information understand why some of them need to be closed. But we are particularly well versed, I think, in the benefits of everyone knowing the truth. It is almost always the best policy, and I think history shows that. Public officials like the word "transparency." I don't see why it would cause them any trouble to put their mouths where their money is.

That's all I have to say. Thank you.

The Vice-Chair: Thank you very much. We'll start with the official opposition.

Mr. Murdoch: I'm quite sure that the press would love this bill. I can see why. It might be a little self-serving. Do journalists have a body that governs them at all?

Mr. Berton: The Ontario Press Council. I believe they're speaking later today.

Mr. Murdoch: Could be.

I don't have any problem with it being open and the press being there. It's just that sometimes you'll go to a meeting and read about it in the paper the next day or hear about it on the radio and you sort of wonder, "I missed that meeting." The media take a different view of it.

Is there any governing body there? Because that's what happens a lot of times, quite frankly. Yes, it's nice to have the press there, it's nice to get it out into the public because that's a way of getting a message out there. But sometimes the message isn't the way that, say, maybe I or someone else thought the message was, and there doesn't seem to be a comeback. The media will say, "Well, you know, we'll get it right next time," or they'll put their correction in a little, wee part of the page nobody ever looks at. I just wondered, though, is there a governing body where someone may, if they choose, complain about the media?

Mr. Berton: The answer is yes, there's a governing body. It's called the Ontario Press Council. The London Free Press is a member, and most big Ontario newspapers are members. You can complain to them and they have a tribunal—that might be too strong a word—a group of people who either agree or disagree, and then the newspaper in question is obliged to print that apology, correction or whatever it is, in a prominent area of the newspaper.

Let me just say about meetings, I once heard of a show—I never saw it on TV, but I heard it was in production—called Eyewitness, where three or four people watched the same event and they'd all tell what they saw. Of course, we all know that people have different perceptions of reality. I think that most newspapers attempt the best approximation of the truth. It might not be the way that politicians would like to see it, and that is fairly typical—you'd know that better than I would—but we don't intend to distort the truth; we intend to reflect it in the best way possible, based on the people we're talking to and what we see.

Mr. Murdoch: We'll let it go on now.

Ms. Martel: Thank you for coming today; you've come a long way. Can you give the committee any examples or scenarios in your organization that your folks might have run into, either trying to get information—and I'm speaking more broadly than, I guess, just attending a meeting—or accessing information involving municipal matters: a local hospital board, the municipality, any of the school boards in the area?

Mr. Berton: Certainly in London recently, the municipality was having some staffing difficulties and

political difficulties a year or two ago, and I think a study was done which said that between December 1, 2003, and mid-April 2004, the council spent 60% of its time in closed sessions. Obviously, that concerned the newspaper as well as the public. One of the council members himself said that it was too much. Since then, they're down to 22%. Most of the time we realize that if they're talking about personnel or property matters, that's fine; it's when they're in there all night—I agree that we're outside without a story, so that's a problem.

1120

Again, from my point of view and from the point of view of most journalists, it's a perception. It's not what they're doing in there, that we think anything is wrong; it's just that if they're behind closed doors all the time it doesn't look good.

Ms. Martel: The perception is that something is going on that they don't want to have the public know about, and that's a regrettable perception if they're actually in there dealing with personnel issues that are legitimate ones that should be behind closed doors.

Mr. Berton: Exactly. I may be going out on a limb, but I think that most journalists understand that; the public sometimes does not. I think the public says, "This is just too much." Even to me, 60% would be too much.

Ms. Di Cocco: Thank you for the presentation. To me, this bill is also about ensuring that there is discipline and clarity, so that when somebody is in camera 60% or whatever the percentage is and there is real suspicion, we have a mechanism to be able to say, "Was it the right reason to be in camera or not?" Then it doesn't have a cloud, if you want, over it.

These are public bodies that spend public dollars. I don't know if you recall the judicial inquiry in Sarnia. The recommendations that came out of this one found that the reason a lot of the decisions were made, which cost the taxpayers over $6 million, was because of the secrecy. That's all this bill is intended to do.

We have three pillars, I think, in our democracy: the public, the press, and government—and public bodies, if you want. Those are the three pillars. Each one plays a role, and if you don't allow one to play a role because you're hiding away in a room somewhere making some other decisions, then I think it does diminish democracy. That's what it's about.

I know the London Free Press has certainly been very supportive. Do you have any insights you can provide that would improve the bill?

Mr. Berton: I agree that it should be as wide-ranging as possible, but I also agree with your comments that it's a good start. We start small and we get big. That's the way we prefer to do it in the newspaper business. I have no idea about the obstacles you're facing, but when I face obstacles, I say, "Simple is better, and we'll move on to the next step once we get this one finished." So, no, I don't.

The Vice-Chair: Thank you very much.

Mr. Berton: Thank you.

ONTARIO COMMUNITY NEWSPAPERS ASSOCIATION

The Vice-Chair: The next deputant is the Ontario Community Newspapers Association.

Welcome, and please identify yourselves.

Mr. Bill Laidlaw: My name is Bill Laidlaw. With me is the publisher of the Ridgetown Independent News and a Chatham-Kent municipal councillor, Jim Brown.

It's nice to see many of you again. I have a different hat on today. I'm the executive director of the Ontario Community Newspapers Association, or OCNA, an organization I think you're all familiar with.

OCNA represents 285 community newspapers across Canada in urban, suburban and rural areas, with a combined first-edition circulation of four million and a readership of over five million. Some 73% of adult Ontarians read at least one community newspaper each week. Our papers range in size from a circulation of 185,000 for Niagara This Week to 254 for the Hornpayne Jackfish Journal. Ontarians rely on their local community newspapers to deliver the news that affects them, a job which can be made more difficult through the abuse of in camera or secret meetings by public boards, bodies or councils.

Newspapers—and, indeed, democracy—only thrive in conditions where information about what governments or quasi-government agencies do is freely available and easily accessible. The more citizens know what is going on, the better citizens they will be. They will make informed choices on issues; they'll discuss and debate with the facts at their fingertips, and when it comes down to election time, they'll cast their ballot for candidates whom they feel best represent their views, because they know what their views are, what their values are, the true records of the candidates.

Therefore, it is imperative that municipalities, school boards, hospital boards, police service boards and a multitude of others are truly open and provide the public with as much information as they can. We recognize there are some instances where the public's right to know is superseded by other concerns, like personal privacy or public safety, but it's important that these exceptions remain just that—exceptions—and that they are as narrowly construed as possible.

Over the course of these hearings, you have heard or will hear from several groups seeking to limit the scope of the bill. We urge you to weigh those arguments carefully against the public good of open government. In previous public statements, the Association of Municipal Managers, Clerks and Treasurers of Ontario argued that since section 2 of the Municipal Act, 2001, says in part, "Municipalities are created by the province of Ontario to be responsible and accountable governments with respect to matters within their jurisdiction and each municipality is given powers and duties under this act and many other acts," the Transparency in Public Matters Act need not apply to them, as provincial law already considers them responsible and accountable to the citizens they serve.

Most of the time, in most municipalities, they're right. Laws are not made for the individuals or groups who know something is inherently wrong but for those who either don't know or don't care. But even normally responsible and accountable people can cross the line. If I have too much to drink at a party and try to drive home, should I be given a free pass on drunk driving charges because I'm normally a responsible person? Of course not.

Laws are there to protect the public from the bad decisions of others, and municipal and other governments are not immune to poor decision-making. The safety valve citizens have is openness, the right to know what their elected officials are doing in their name. It is an informed citizenry and fair-minded media that makes municipal governments responsible and accountable, not provincial statute.

AMCTO further opposes the inclusion of municipalities in Bill 123, as they say that councils need flexibility to deal with local issues in a manner that is appropriate to local conditions and circumstances. How will this act stop them from doing that? It doesn't prevent municipalities from holding special meetings, telephone meetings or going in camera, but what it does is ensure that the basic principles of openness and transparency aren't sacrificed for the sake of mere convenience.

There is no question that it's a lot easier to make a difficult decision out of the watchful eye of the public, but, as you know, governing isn't about easy; it's about doing what's best for your community, your province and your nation. We do feel that flexibility is needed, but it is the flexibility to accommodate public participation in the workings of the public bodies designated under this act.

Another concern that has been raised is the idea that if all meetings are public and if minutes have to be recorded, the edited versions of which will be released to the public, a greater possibility exists for legitimately private information to be inadvertently made public. This issue can be easily solved through educating staffs of the included bodies on what can be released and what can't. Privacy concerns are important, but to exempt certain bodies or to unnecessarily tighten restrictions on meetings that could be public is like trying to eradicate West Nile by exploding a nuclear bomb in every pool of standing water where mosquitoes breed. It will get the job done, but at an unbearably high cost.

We are concerned with the idea that a large number of public bodies will be removed under a proposed amendment that would limit the scope of the act to only cover municipalities, school boards and hospital boards. The public's right to know is and should be as broad as possible and therefore should be protected in as many bodies as possible. Provincially mandated bodies that work on behalf of the people of Ontario and make decisions that affect our lives should be open to public scrutiny to ensure that they truly represent the values and beliefs of the communities they serve.

The other proposed amendment I would like to comment on is the idea of having minutes approved before they're made public. As one who has been involved in a number of organizations in my life, I know that releasing unapproved minutes is not the done thing, but what I would suggest, owing to the fact that some bodies meet infrequently, would be to allow their members to review and sign off on the minutes without a formal meeting to do so. With all the wonderful technology we have at our fingertips, it wouldn't be that difficult. Once all the corrections have been made and a final version approved for release, the minutes should be made public. I would suggest a time limit of five to 10 business days to accomplish this, or the next scheduled meeting, whichever comes first, so as not to place an onerous amount of burden on boards and municipalities with small staffs but still make meeting information available in a timely fashion.

1130

Overall, OCNA and its member newspapers are strong supporters of Bill 123. The spirit of the bill reflects the true spirit that burns within every community journalist: The desire to know what's going on and the desire to share that information with their community. Ensuring that accountability of public bodies and protecting the openness of meetings are important steps toward protecting people's right to know. Creating an appeals process to handle complaints of abuse and backing it up with real consequences for those who break the law gives the act much-needed teeth.

The Municipal Act does outline when and how a council can go in camera but offers no redress to the public or media to challenge that decision and no consequences for those who flout the law. The Transparency in Public Matters Act will make it more difficult for the percentage of elected and appointed officials who, for whatever reason, attempt to do business behind a smokescreen of artificial privacy concerns to keep the public from knowing about decisions being made on their behalf.

Privacy is important, and there are some things that shouldn't be released, but it is important to carefully scrutinize every case where someone wants to prevent the release of information to the public. Instead of the model of non-disclosure in borderline cases, we should move toward partial disclosure, where as much information is released as possible and only the bare minimum is kept secret. It's only with an informed public that governments and boards are made to be responsible and accountable, because the citizenry knows what they're responsible for and on what they should be called to account.

Community newspapers do that. It's a part of our mandate, and our readers expect us to report faithfully the goings-on of life in their community. But when the in camera meeting privilege—and let's make no mistake; in a free society, it's a privilege—is abused and information that affects the lives and futures of citizens is wilfully withheld for reasons of expedience or to avoid embarrassment, then the community newspapers can't do their job. If we can't do our job, then citizens can't do

their most important job of helping to decide the course of their community's future, and in the end those in power become less accountable. That's why Bill 123, as it was originally written, with the few changes we suggested, should be a vital part of keeping Ontario strong and open. Thank you.

The Chair: Thank you. Ms. Martel.

Ms. Martel: Thank you for being here. Congratulations, since you do have a different hat on today. You have a colleague with you—

Mr. Laidlaw: A councillor.

Ms. Martel: It's not that I don't want to hear what you have to say, but since you are here and since you have experience on council, can you give us some sense of what happens in your community and why you think the bill is important?

Mr. Jim Brown: I believe it is an important bill. The present system is being abused; there's no doubt about it. That's why I made the trip today. I've got to be careful I don't break any in camera confidences at this time, but it is happening. I believe that in some points, the bill doesn't go far enough. It leaves it too open as to people's interpretation. You can go into an in camera meeting for "legal purposes." What's a legal purpose? Because somebody on the street said, "If you deal with that at your next council meeting, I'm going to sue you," does that mean it's going in camera? I'm not going to say that it happens, but it's an interpretation of the laws.

Are there problems out there now? From both sides, as a publisher and a councillor, I believe there are. Are there consequences for those who break the law right now? No. I have personally brought items to the ministry and, over a period of a couple of weeks, they actually sent them tapes of a meeting where a discussion took place at an open meeting of items that were discussed in the in camera meeting. Representatives from the ministry here in Toronto have definitely admitted there has been a major problem with what they're discussing in camera. What's going to happen? "Well, in the worst-case scenario, we'll send him a letter and slap him on the wrist." Whether you're a journalist or a member of that council, is it really worth it sometimes under the present system to bring these forward and then have to deal with the wrath, whether it's a fellow councillor or administration or the public?

I think it's a tremendous bill. I don't think it goes far enough. I think interpretation of some of the reasons needs to really be defined. On the other side, what do you cover? Under the present system, how do you report when there's no report coming out? You can't write a story on a one-line report. You don't know who to talk to. So it's going to be tremendous if this succeeds.

Mr. Laidlaw: We have Lou Clancy here as well, who is director of editorial policy for the Osprey Media Group. He just joined us, and he's also available to answer questions.

Mr. Lou Clancy: My apologies for being late.

The Vice-Chair: Thank you, and welcome. Ms. Van Bommel?

Mrs. Van Bommel: I certainly want to say thank you very much for coming in, and welcome to Toronto. I wonder if you had the same the problems with traffic that my colleague Mr. Murdoch had getting in here.

In my riding, we only have weekly papers; we have no dailies. The weeklies are read from cover to cover, sometimes more than once. I certainly appreciate the availability and the access that they give to my constituents in terms of information about what's happening in my riding and that sort of thing.

Ms. Martel has already basically asked the same question that I wanted to ask, which was, as the editor-in-chief from the London Free Press, Mr. Berton, alluded to, the whole issue of: How effective is the open meeting concept at the municipal level right now? So that's been dealt with; thank you.

The Vice-Chair: Ms. Di Cocco, we only have a minute left for the government.

Ms. Di Cocco: I do hear the comments that the bill doesn't go far enough. There is certainly a need to start somewhere. One of the processes I'm hoping to actually see become law, in the process of trying to make it better, is to hear submissions such as yours, and I do hear and weigh them all. The next process is bringing in amendments to make sure that we don't include bodies that shouldn't be included. One of the errors on my part is that regulatory bodies or advisory bodies, which really don't make decisions, should not be included in the bill because they basically advise another body that ends up making the decision.

You're absolutely right with your comment about the culture that becomes inherent. There's no penalty imposed or no mechanism of scrutiny that can really be applied as to why people are in camera.

In 2001, someone made a submission to the committee about having gone all the way to the Supreme Court of Canada on behalf of the national papers, I believe, and winning the case at the Supreme Court of Canada that that body should not have gone in camera. But the justices just looked at them and said, "Well, all we can tell them is not to do it again." That's where the frustration is, I think, and that's where the permissiveness comes. The honour system is really what we're using to try to get the rules for in camera and there's a mechanism of, "OK, let's check these off."

The community papers have been a really strong supporter of more transparency. You're absolutely right: I think it is about making a difference. I certainly want to see this bill passed; that's the first thing. I think that adding appropriate commissions as we move forward is much easier once there is a law that says, "This is the standard."

Mr. Murdoch: Good morning. I have two things I want to mention. One is that I'm not surprised that you guys are in favour of this, just like the London Free Press. But I have a problem: Nobody scrutinizes the press. This is a problem. It seems like the politicians are really being scrutinized a lot.

Let's make it clear: I don't think that there are a lot of abuses out there. There may be some, and this bill could

correct that, and there's no problem with that. But we'll hear some more, I'm sure, about how the media can't get to this meeting and that meeting. It makes it look like a lot of politicians are bad. I don't think that they are in Ontario. I think we have a good system and it works quite well. There are some abuses, and one of the problems is that there's no one scrutinizing the media. When you guys print something or there's something on the radio or whatever, there's really no recourse for the person when you may not be printing it the way they would like to see it. That's just something I think that we should remember.

1140

The other thing is, you've got to be careful of how many commissions we include, because a lot of people are volunteers, like advisory groups to councils. If you start putting a lot of scrutiny on those people, then they'll quit. They don't get paid; they volunteer their time.

In the municipality that I'm in, they have about four or five advisory groups, like rec and culture and finance. All the people who are from the public on there are just doing it for free and to try and help out the community. You've got to be careful on those. Most of those meetings are open, but I don't think there's any law saying they have to be or don't have to be. They're just people who are giving their time. You have to be careful we don't put too much control on people, then they just will say, "Well, why am I going to bother with that?" So that's the other thing we've got to be careful of here.

There's nothing wrong with this bill to go on and work on it and try to make it right. But as I say, I'm not surprised that you're in favour.

The Vice-Chair: Any response?

Mr. Laidlaw: I'd just ask Lou if he wouldn't mind commenting on the—

The Vice-Chair: Please be brief.

Mr. Clancy: I'd just like the members of the Legislature to note what's happening to voting records in the last 20 years. I think we can tie this down to a lack of civic involvement, a lack of transparency in government and perhaps a lack of quality reporting in some cases, Bill. I know you've had your difficulties at times.

Mr. Murdoch: I just like to keep them on their toes.

Mr. Clancy: Yes. If we don't have transparency, we have a disengaged public and we don't have people voting.

I just want to give you one example of how absurd this could be. Without naming the township, they went into a private session and turned down a beer tent for a senior citizens' fundraiser. It turned out that it conflicted with a fundraiser of their own. What was their reasoning? We don't know. But after the meeting, the mayor was asked why they went into private session and he said, "What does that mean?" So there is some lack of knowledge out there as to what the responsibilities of council are. And do remember that they are paid by the public; they're our employees. We should know what they're doing. That's all I have to say.

The Vice-Chair: Thank you.

Mr. Murdoch: All I'm saying is, they're not all bad. Let's not paint our municipal politicians or even our provincial ones as everybody being all bad.

Mr. Clancy: No intention of doing that, Bill. No intention. It's an honourable profession.

Mr. Murdoch: OK. That's good. I just want to hear the press say that.

Mr. Clancy: Yes.

The Vice-Chair: Thank you very much. I understand that Ms. Di Cocco, the sponsor of the bill, would like to speak briefly. Do we have unanimous consent? Because we've used up our time; we've actually gone over two minutes.

OK, please proceed.

Ms. Di Cocco: Just to Mr. Murdoch's point, I don't believe that this is intended to deal with the characterization of anything. It really is dealing with some holes in the system, holes that I can tell you—the two judicial inquiries—this one lasted seven weeks. I had standing at it, and what I've learned from it is that so much of the decision was made under this cloak of secrecy—something like this.

I also know that there are a couple of councils in my area that have raised their salaries, but they did it in camera and nobody ever knows how much it is. We can't get access to it. Why does that happen? Because there's this honour system.

All this bill is intended to do is to raise that bar a little bit and also so that people who are in those positions of trust can reflect before—they have to now—they go in camera because they have to justify it. That's all it's intended to do and it does not intend to suggest—the cases that have come before us make the point where the holes are.

Mr. Murdoch: I'd just say that probably the reason they did that is because the media would have printed the next day that they got a 110% increase or something, which might have been $10. But they wouldn't have said, "They gave each other $10"; it would have been that big thing on the front page. It doesn't excuse that they should do that.

Ms. Di Cocco: That's right.

Mr. Murdoch: But they're the other people in this pillar you're talking about who don't seem to have any scrutiny on them.

Ms. Di Cocco: Again, I guess we'll just kind of agree to disagree on that one, because I really think that there has to be a balance in all those three pillars.

Mr. Murdoch: We may be able to add something in there for the press so that we can sit in on their meetings.

COLLEGE OF MEDICAL LABORATORY TECHNOLOGISTS OF ONTARIO

The Vice-Chair: I now invite the College of Medical Laboratory Technologists of Ontario to come forward. Welcome, and please identify yourselves.

Ms. Kathy Wilkie: My name is Kathy Wilkie. I'm the registrar and executive director of the College of Medical

Laboratory Technologists of Ontario. Beside me is Ms. Tina Langlois, legal counsel and director of investigations and hearings for the college.

I'd like to thank the committee for the opportunity to present this morning the college's position. You should have before you a brief formal submission that has been filed with the clerk.

First, let me tell you a little bit about the College of Medical Laboratory Technologists. We are established under the Regulated Health Professions Act as the regulatory body for over 8,000 medical laboratory technologists in Ontario. Our mission is to protect the public's right to quality laboratory services by ensuring that all of our members meet and comply with established and accepted standards of practice for the profession in a self-regulated environment.

It is our position that the regulatory college should not be included as a designated public body under the Transparency in Public Matters Act, either by being included in schedule 1, as it is in the current version, or in the future by regulation. I'll just speak briefly about five points on why our college feels that we should not be included.

The RHPA already includes specific requirements regarding open meetings, and we talk about specific reasons why a meeting can go in camera and be closed. There are specific points in the RHPA that speak to that. We also believe that transparency issues related to how the colleges are are really more appropriately dealt with through the RHPA; we don't want to create additional potential for conflict and confusion.

The Transparency in Public Matters Act conflicts with the confidentiality provisions currently in the RHPA as well as our privacy obligations. We believe that this act may negatively affect our ability to regulate in the public interest, as the public may have concerns about confidentiality of process. We certainly appreciate and understand that Ms. Di Cocco is proposing amendments that would address our concerns and fully support those proposed amendments.

In conclusion, I think we would like to say that we are very much committed to openness, transparency and fairness and we believe that those qualities are dealt with best through the Regulated Health Professions Act, which we are established by.

The Vice-Chair: Thank you very much.

Members from the government?

Ms. Di Cocco: I have certainly understood clearly, from 2001 actually, that regulatory bodies and advisory bodies really aren't decision-making bodies. There's another aspect to that that was pointed out to me in 2001, and that is that the regulatory bodies are actually funded by the members.

Ms. Wilkie: That's correct.

Ms. Di Cocco: They're not funded by public dollars, at least directly, in some cases. So that is my intent, to not have them as part of the schedule. It should not have been there; it really was an error, for different reasons. But I thank you for the submission.

Ms. Martel: Thank you, Mr. Chair.

I don't have any questions. We had a presentation from a regulatory body earlier as well, also one governed under the health professions act, and I made it clear at that point that we're not interested in obtaining information that the public doesn't have a right to know. There is regulation, and policies and bylaws that you already operate under as a result of the act, and those should remain in place. So we're not interested in pursuing the regulated health professions and having those meetings that aren't already open to the public—because many are—now be made open as a result of this bill.

The Vice-Chair: Thank you very much.

1150

ASSOCIATION OF MUNICIPAL MANAGERS, CLERKS AND TREASURERS OF ONTARIO

The Vice-Chair: The next deputant is the Association of Municipal Managers, Clerks and Treasurers of Ontario. Please come forward.

Welcome.

Ms. Michele Kennedy: Shall I begin?

The Vice-Chair: Please proceed, and identify yourselves.

Ms. Kennedy: My name is Michele Kennedy, and I'm a member of the board of directors and the legislative committee of AMCTO—the Association of Municipal Managers, Clerks and Treasurers of Ontario. I work for the town of Whitchurch-Stouffville, and I'm a municipal clerk. With me here today is Frank Nicholson, AMCTO's manager of legislative services.

AMCTO is Ontario's largest professional association of municipal government professionals, and we've been around since 1937. Our more than 2,100 members are found in nearly every municipality in the province, where they form the core of the municipal civil service.

AMCTO's mission is to promote excellence in municipal administration. In addition to the quality education and professional development activities that we provide, we are also proud of our highly regarded certified municipal officer, or CMO, designation, and we advocate for legislation and regulations that promote healthy local democracy and efficient delivery of municipal services.

We are here today because we believe that, unless it is amended to exclude municipal governments, Bill 123, the Transparency in Public Matters Act, would undermine the decision-making process in municipalities across Ontario. We have before you our written submission, and I'd like to highlight some key points:

First of all, I'd like to stress that AMCTO fully supports the stated purpose of Bill 123: "to ensure that the meetings of designated public bodies at which deliberation or decision-making occurs are open to the public and that the minutes of those meetings are made available to the public." However, we don't feel that Bill 123 should have to apply to municipal governments for that objective to be achieved.

Unlike other public decision-making bodies that are subject to Bill 123, municipalities are—and I quote the current Minister of Municipal Affairs and Housing—"a level of government, duly elected just like the provincial and federal levels." Municipal governments are held to account through an electoral process similar to the process that ensures the accountability for provincial legislation.

In addition, the new Municipal Act already contains extensive provisions to ensure transparency in local government. Section 251 requires that municipalities establish, by way of bylaw, the form, manner and timing for provision of notice. Section 239 requires that meetings of councils and local boards be open to the public, subject to reasonable exceptions similar to those that are set out in Bill 123. Finally, section 253 confers the right of access to all minutes and proceedings of regular, special and committee meetings of councils and local boards.

So to recap, those three portions of the bill already exist in the Municipal Act.

The overlap between Bill 123's provisions and those of the Municipal Act is unnecessary and would create confusion for elected officials, municipal staff and the general public, and could undermine the local decision-making process. While the Municipal Act takes into account the specific circumstances of local government, the approach in Bill 123 is "one size fits all."

A good example of the overlap is how a council is supposed to give notice of meetings. Bill 123 requires designated public bodies to give "reasonable" notice to the public of all meetings being held and spells out the methods to fulfill that requirement. Section 251 of the Municipal Act provides that "where a municipality is required to give notice under a provision of this act, the municipality shall, except as otherwise provided, give the notice in a form and in the manner and at the times that the council considers adequate to give reasonable notice under the provision." Before the passing of this notice bylaw, councils or local boards must give notice of the intention to pass the bylaw to ensure public opportunity for debate.

Almost all municipalities have now enacted these notice bylaws with requirements that exceed those in Bill 123. In preparing these bylaws, each of Ontario's 445 municipalities had to think through what constituted "reasonable notice," bearing in mind the particular circumstances of that municipality.

We are concerned that Bill 123's overly prescriptive approach would limit the ability of municipalities to design the type of meeting notice procedure that is most efficient for the residents and is also contrary to the Minister of Municipal Affairs and Housing's June 2004 statement that "we no longer want to micro-manage municipal governments."

Another example of overlapping that exists is with the rules governing the preparation of minutes. Bill 123 states that minutes shall "contain sufficient detail to adequately inform the public of the main subject-matters considered, any deliberations engaged in and any decisions made." The words "any deliberations" suggest to us that a verbatim recording is envisioned. In contrast, the current rules in the Municipal Act direct the municipal clerk to "record, without note or comment, all resolutions, decisions and other proceedings of the council." Note the words "without note or comment." The purpose is to record the decisions made by a council and not the lengthy discussions and political positions involved in reaching decisions. We are not aware of any concerns that have ever been raised about this decades-old provision in the Municipal Act. We believe that overlaying one set of statutory requirements for minutes with another set could create confusion and create the possibility of legal challenges.

A final area of concern for us is the half of the Transparency in Public Matters Act that would authorize the filing of complaints with the Information and Privacy Commissioner about municipal procedural decisions. We note the broad nature of the commissioner's powers: to enter and inspect, to demand production of things relevant to the review, to require any person to appear to give evidence and to void decisions of elected municipal councils. AMCTO's position is that applying these provisions to municipalities is inconsistent with the concept of municipal government as a duly elected, accountable order of government. We also note the significant ramifications of a commissioner's order voiding a municipal decision, recommendation or action months after it has already taken place.

However, we're not saying that there is not any room for improvements in the Municipal Act provisions that Bill 123 addresses. We strongly believe, however, that the proper forum for considering such changes for municipalities is the review of the Municipal Act that is currently underway with the Ministry of Municipal Affairs and Housing. We believe, in fact, that we also have raised with the ministry the desirability for clarification of the current list of circumstances in which council meetings can be closed.

As I noted at the outset of my presentation, AMCTO, the Association of Municipal Managers, Clerks and Treasurers of Ontario, fully supports openness, accountability and transparency in the conduct of public business, including municipal business. As our more than 2,100 members observe every day as they provide procedural and policy support to councils, Ontario's local government system operates in a very responsible, accountable and transparent manner overall.

The content of Bill 123 is too closely related to the provisions of the Municipal Act to be considered independently, and the introduction of an additional piece of legislation governing the way in which municipalities conduct their business could create confusion for municipal politicians, staff and the members of the public whom they serve and could undermine the decision-making process in communities across Ontario.

We greatly appreciate the opportunity you have given us to speak on this matter. I'd be pleased to answer any questions the committee may have.

The Vice-Chair: Thank you. Mr. Murdoch?

Mr. Murdoch: We've heard today that the problem with the Municipal Act is that there's no enforcement, that if you don't do what the act says, there's nothing anybody can do about it. That's been a complaint, so people have said that this is why this is a good bill. What do you have to say about that?

Ms. Kennedy: I don't think in any of our presentations we're objecting to some teeth being considered. We'd just like it to be done in conjunction with the Municipal Act, because it's more specific to municipalities. We do have some concerns about holding up decision-making processes: If council makes a decision, how long is the review for any inspection that might happen? We also have a concern about voiding a decision that has been made in good faith.

Mr. Murdoch: On minutes: You mentioned in here that you were afraid that the minutes would have to be too long. Is that what the bill reflects? I'm not sure.

Ms. Di Cocco: Well, the bill says that you have to have adequate minutes, basically, that they have to be adequate. Let me just find it, and then—

Mr. Murdoch: I just wondered about that. You were concerned about that.

Ms. Kennedy: It does say, "any deliberations," and that's our concern. The current wording in the Municipal Act is to "record, without note or comment, all resolutions, decisions and other proceedings of the council." So we capture council's decision; we don't record all deliberations.

Mr. Murdoch: I understand that, and maybe we could do with some clarification on that one when the bill comes out. I think the intention of the bill is to try to put government bodies under one roof on this, because there are a lot of other bodies that are governed by the province. They're just trying to get them all so that the public can understand what's going on.

1200

Like we mentioned before, I don't think there are a lot of municipalities abusing the system, but probably there are some; at least we've heard some stories about it anyway. I think that's what they're trying to do, if you go to the Municipal Act with that. I guess if we were to govern hospitals, we'd have to go to a different act there, and I think this is just trying to get under one act.

Ms. Kennedy: I do understand that there are several other bodies, but we are just saying that we already have legislation that governs us and covers the majority of what's in this bill. If it needs to be tightened up, could it not be tightened up or dealt with through the Municipal Act review?

Mr. Murdoch: OK.

Ms. Martel: I appreciate that view as well. I should just tell you, as a bit of background, I deal a lot with municipal staff in my part of the world. I have absolutely no complaints about their professional response and their conduct. I can say that as far as I can see, the councillors themselves work fairly hard to make sure their meetings are in public; they're televised on cable and there are always media there, so I don't see a particular problem at home.

We have heard comments here today that make me wonder how effective the act really is in some municipalities when a councillor who is also a publisher says the minutes of the meeting have a single line, so it's really hard to determine what happened at that meeting, or that approaches have been made to MMAH to be involved in resolutions and MMAH really throws up its hands, or when I hear from the publisher of the London Free Press that in a four-month period—and someone will correct me if I'm wrong, but I think it was a four-month period—60% of the meetings were in camera. Someone is not being too forthcoming. I'm not blaming staff. I suspect a lot of those decisions were made by the councillors themselves, and you would have no control over those folks.

It seems to me that there are circumstances where there is not much effort being made to be really forthcoming, and I just think that does a disservice to the public, who may leave with the impression that something suspicious is going on. I don't want people to walk away with that impression.

I appreciate what you say in terms of maybe these changes should be made under the Municipal Act. I hadn't really put my mind to that. I said at the start of the meeting that in principle I'm supportive of having these meetings more open because it's taxpayers' dollars that are involved. I think those bodies and those boards of directors and those councillors should be accountable and I'm searching for the ways and means to see that happen. I appreciate what you're saying and I'm trying to balance that against some previous submissions, which you were here for as well, where clearly some of the current provisions, even under the Municipal Act, are not working for people in communities in different parts of the province.

Ms. Kennedy: I do appreciate your comments. AMCTO has been dealing with submissions for changes to the Municipal Act, and we've been asking for clarification because we also see concerns. We would just like to deal with it as one legislation and not lose the specifics that have been spelled out in the Municipal Act that deal with, for example, notice provisions that are specific to municipalities. Some municipalities don't have Internet access; some municipalities in rural areas can't get broadband to have that. So they take into consideration what they have and how best their community can be provided notice. If it's a one-size-fits-all, then we lose that flexibility.

We support the intent of the bill. We would just like to see it proceed through the Municipal Act so that we don't lose the specifics that are related to the municipalities that are already in the Municipal Act.

Ms. Di Cocco: I certainly have spoken to the policy staff of all the ministries in the development of this, in the past and now. With your comment about the actual minutes, I go back to the judicial inquiry of 1998. In looking at all the facts, one of the things the justice

spelled out is that public bodies big and small across Ontario must create a clear and public record of their meetings to which the public and interest groups may have access after the event, and specifically that school boards and city councils prepare and maintain proper minutes, resolutions and bylaws.

A lot of the frustration in trying to get at information through an inquiry was the lack of information and proper minutes. That's where that section was born, if you want, to some degree. Again, this is not about being punitive or any of that. You say you want clarification. And, in clarification, hopefully it is an attempt to bring better discipline in the transparency of how the business is done, and to have teeth so that there is a way to deal with inappropriate decision-making.

The bad decision-making here, in particular between a public council and a school board, according to the inquiry is still costing the municipality millions of dollars. Therefore, if the decision could have been made legally null and void we would not be spending millions of dollars of taxpayers' money because of poor decision-making under that era.

Ms. Kennedy: If I could just point out one thing, I think when I listened to your initial submission you said that your initial inquiry was in 1989 over 1990. I started in the deputy clerk position in 1990. Back then, there were no requirements of municipal councils as to what could or could not be dealt with in camera. I don't remember the exact year, but it was around 1991 or 1992 that a list came out under the Municipal Act that's similar to what you're requiring now of what we can take and deal with in camera.

Unfortunately, when you had the incident, it was at the whim of councils as to what went in camera. Then we were regulated under the Municipal Act to tighten it up. We now have notice provisions. I think that municipalities and municipal councils recognize that there needs to be more open accountability, and we have moved in the direction that you're requiring. We're just asking that you continue to work through our own legislation that we're already governed under.

The Vice-Chair: Thank you very much.

ONTARIO HOSPITAL ASSOCIATION

The Vice-Chair: The next deputant is the Ontario Hospital Association. Welcome.

Ms. Hilary Short: Good afternoon. My name is Hilary Short. I'm president and CEO of the Ontario Hospital Association. With me here today is Elizabeth Carlton, our director of legislative and legal affairs.

We're very pleased to have this opportunity to appear before you this afternoon on Bill 123, the Transparency in Public Matters Act.

The Ontario Hospital Association has consistently endorsed the need for transparency, and Ontario's hospitals are already leaders when it comes to accountability to taxpayers. We therefore support the spirit and intent of Bill 123 and wish to acknowledge Ms. Di Cocco's enduring commitment to enhancing accountability within the public sector.

Hospitals share that interest and continue to do their part to ensure they are accountable to both government and their communities. Whether it be through Hospital Report, public reporting to their community, open board meetings, a rigorous accreditation process through the Canadian Council on Health Services Accreditation or, most recently, the newly introduced value-for-money audits by the Provincial Auditor, hospitals do their utmost to ensure their operations are both open and transparent. And they will continue to do so.

This year, hospitals are entering into multi-year accountability agreements with the Ministry of Health and Long-Term Care, agreements which set out in detail what services will be provided to the community, with specific targets and benchmarks for performance. We believe these agreements will only strengthen our position as leaders when it comes to advancing openness and transparency.

While we appreciate and support Ms. Di Cocco's efforts to enhance accountability, we also believe that this interest must be balanced against the need for confidentiality, particularly when dealing with issues of sensitive nature, as well as very real practical considerations. So we do have some reservations with the bill, as it's presently drafted, and our submission details some recommended changes.

1210

With respect to the provisions requiring open board meetings, the OHA has encouraged its members to adopt this practice. As a result, the vast majority of Ontario hospitals currently do hold open board meetings. They provide notice and report back to their communities through various mechanisms such as their Web site, newsletters and local media.

We have no difficulty with the requirements of Bill 123 in this regard. We would only suggest that the list of exemptions on matters to be held in open board meetings be expanded to include discussions that relate to patient information and property matters.

We do have great difficulty with the fact that the legislation, as it's currently drafted, applies not only to hospital boards but to their committees as well—in particular, to a hospital's medical advisory committee.

This committee deals primarily with appointment and reappointment of medical staff—human resource issues—as well as quality of care within the hospital. As a result, that committee, the MAC, routinely discusses highly sensitive issues related to patient care, such as adverse events, near misses and complications which necessitate the discussion of patient information.

Patient confidentiality is a fundamental tenet of our health care system. Patients rely on their hospitals to provide a safe environment built on a relationship of trust. The OHA believes that this relationship of trust will be eroded by requiring MACs to hold public meetings and would ultimately have a detrimental effect on the quality of care.

We are similarly concerned that other hospital committees, including the fiscal advisory committee or the quality assurance committee, which deal with such issues as staffing and risk management and serve in an advisory capacity to the board, could be subject to the open meeting requirements of Bill 123. Once again, we believe that accountability to the community is best served by allowing for candid discussion in formulation of advice to the board. Again, let me stress that these committees do not make decisions; they are advisory in nature.

While we understand that the intent was to amend Bill 123 to exclude MACs and other committees, the broad definition of "meeting" in section 3 continues to include committee meetings of hospital boards and other advisory bodies. So we are suggesting further amendments to ensure that hospital committees are not included within the scope of the bill.

Finally, although our primary concern with making amendments to the bill is the inclusion of committee meetings, we do believe the bill also does impose significant administrative burdens on hospitals at a time when they are under intense pressure to reduce nonclinical staff. As part of the new hospital accountability agreement and balanced budget planning process currently under way, the Ministry of Health and Long-Term Care has identified administration and support services as one of the priority areas for cost reduction. So as you can well appreciate, hospitals will find it increasingly difficult to reduce costs when confronted with specific new legislative requirements that would increase the need for administrative staff. If the bill could be amended to make sure that the burden is as light as possible, we would be very supportive.

These and additional concerns and suggestions for improving the bill are set out in our written submission.

Again, in closing, I would like to emphasize that the OHA firmly endorses the spirit and intent of this bill and Ms. Di Cocco's efforts in making public institutions more accountable.

We share that same goal and are working to ensure that Ontario's hospitals continue to be leaders when it comes to accountability and transparency, but we do believe that additional amendments are needed to ensure that Bill 123 is both balanced and ultimately provides meaningful enhancements to public sector accountability.

Thank you once again for the opportunity to present to you this afternoon.

Ms. Martel: Thank you, both of you, for being here this morning. A couple of questions. This goes back to a concern we heard earlier about administrative costs. You say in your submission that the vast majority of hospitals currently hold open meetings, they provide notice and they report back to their communities. So I'm assuming that lots of folks do that now and are not seeing a significantly increased burden to do that, if they already are. In all likelihood, how much of an administrative burden are we talking about here, from your perspective?

Ms. Elizabeth Carlton: Certainly, that's a valid point. A lot of the hospitals are undertaking that function right now. I think it's really the scope of it. For example, the bill provides for making electronic meetings open to the public, whether it's by teleconference and whatnot. There are some very real practical considerations around doing that. There is a requirement to appoint somebody within the hospital and the board to oversee compliance, to develop a set of rules, to follow up with the community around those rules and to interface with the Information and Privacy Commissioner with respect to any complaints, investigations, whatnot.

What we've heard from hospitals is that every time you add a whole level of procedure to something, it will require a point person within the hospital to deal with that. If the bill does include committees, we may be talking about some 10 to 15 committees, rules for each of those, notices for all of those, minutes, posting, discussions with the public, a liaison person. It may sound somewhat insignificant, but as you can appreciate, putting all of that into force does require at least an FTE.

Ms. Martel: Ms. Di Cocco will probably speak to this further, but she has said that what she's really looking at is not the advisory boards. I guess the distinction you could make, even in a hospital setting, would be that we're wanting open public meetings and information from the board that makes the decisions versus the recommendations. If that was the premise that we were operating from, where does that leave the administrative burden at that point?

Ms. Short: It would be less. As you point out, most hospitals already have open board meetings, so it would be less. But, as Elizabeth says, there are still requirements that will slightly increase that. We don't want to build a huge case about that. This is not really the principal point of our submission, but we would just point out that there are some additional administrative costs related to it. Certainly, if it's just the board we're talking about, it's less.

Ms. Martel: I appreciate that. I raise it because it was the principal point of another submission, so thank you for giving us a little bit of a different perspective from the hospital sector.

Ms. Short: I don't think it's a good argument not to do it. I just wanted to point it out.

Ms. Martel: One more question, if I might. You were asking about the exemptions to include discussions of patient information, which I fully support. "Property matters": what does that mean?

Ms. Short: It means real estate; matters relating to transactions. Again, this could be a little bit controversial when it relates to the sale of hospital property or things that people care about, but it is one that the hospitals have pointed out can be very problematic.

Ms. Martel: It would be my sense that there would be concerns in a community about why there is a sale of land occurring and what that money is going to be used for and, at the same time, the hospital may be arguing that they are having to have a reduction in services. That becomes very controversial very quickly in a community.

Ms. Carlton: No, we appreciate that. I think what also comes into play here, and this is the primary issue I think,

is if you were discussing, for example, competitive bids or if it's something relating to economic advantage. As you can appreciate, whenever you're dealing with matters of real estate, if you're trying to decide between this bid and that bid, that kind of thing can't really take place in an open setting, just because of the nature of those discussions.

Ms. Martel: Do you think that's included under the exemptions that are currently described in the bill, where they speak to "financial, personal or other matters"?

Ms. Carlton: You're right; it may be included under clause 5(2)(a). I think we just wanted to raise the point that consideration should be given to making it its own provision, so there isn't some ambiguity around it.

Ms. Di Cocco: Ms. Martel addressed the three: I had patient information issues, which I certainly understand.

The administrative burden has come up before. We had a presentation from two representatives from hospital boards, and they brought WeirFoulds with them, which kind of surprised me, to tell you the truth, though it's understandable, I guess. What I'm trying to grasp is the administrative burden. In the context of the bill—at least, in the spirit of the bill—the idea is that somebody who is on the board has to ensure that they're following the rules. Basically that's what it's about. It's not intended to have this huge administrative implication. What it is is a check before you go in camera that someone says, "OK, are we meeting these requirements?" Just kind of a reminder; that's all.

1220

I think that if something is done in good faith—I mean, it's about justice too. It isn't punitive. It's just meant to create the check and balance that I believe doesn't exist. Again, we heard from two separate bodies, two hospitals: one that apparently doesn't need to go public with their meetings, and another one that did. It was interesting to hear the contrast, but it's also a culture. It's a culture of the institutions that have more and more been able—knowing that there are no teeth in the regulations or the criteria for open meetings, I think, over time, what's happened is that you make exceptions, because it is more convenient to discuss things in camera sometimes. It is a quicker way, people said, to be more candid. This is the sort of rationale. I just think that in doing the public business, we really have to raise the bar. I believe one of the presenters also talked about the cynicism and the lack of citizen engagement, because they're starting to more and more feel that they are out of the loop, that they're not part of that, or that they are not given all of the information or enough information.

Again, regulatory bodies and advisory bodies definitely will not be a part. I mean, if the amendments pass, they will not be a part of the—

Ms. Short: Does that include all committee meetings that are advisory to the board?

Ms. Di Cocco: Advisory committees as well. It's certainly not my intent that advisory bodies, any advisory committees or regulatory bodies, be included.

Ms. Short: Again, we do support this bill. We have, as you know, for some time been supportive, provided it's the boards. I just would point out at this particular point in time, as you read the clips from the media across the province, that this will become very controversial as hospitals look at programs and services that they are offering and maybe in some cases will not be offering as we reshape the system. It always causes a lot of angst. So we have to find the right balance in terms of when you include and how you present these issues to the community.

Ms. Di Cocco: I understand that. Again, it's about culture, and there's a perception that if the public knows—I've heard this argument, by the way, especially in times of change. I believe that it's a good idea to bring the public along as you're changing. You're right: It creates angst, and I think it creates sometimes even misperceptions of what's going on. But we seem to be going toward more public relations rather than, "How is this moving along? Why are we making these decisions? Where are they going?" I guess that's also part and parcel of openness. I think that can come out of it, rather than sort of the fear of all of the consequences. I think those are some of the positives, too, that come out of more openness. At least that's been my experience.

The Vice-Chair: Mrs. Van Bommel, very quickly.

Mrs. Van Bommel: I'm the past chair of a hospital board. We talk about the whole issue of the cutting of services and that sort of thing, and the great angst, but I also think that by discussing that in public and allowing the public to hear the logic and the reasoning behind it, talking about the utilization rates, all these kinds of things, it takes the emotion out. I think what happens often is that the board suddenly—well, not suddenly, because they've had the discussion prior, but they make the decision. That comes out into the public, and all the public understands is that you've cut a service that they really needed or they felt they needed, and they have no understanding of why. The emotion comes in. I think if you, as Caroline has said, bring the public along in your reasoning and your decision-making, they'll have a better understanding of why you need to make some of the decisions you do.

Ms. Short: I think that's right. I was really making an observation that this is a time where emotions will be running high, but, as you say, if that's the decision, it probably is better that it's open and transparent.

Mr. Murdoch: You mentioned different quotes in the media. Let's hope the media get it right so we don't get too much misconception. We've had the media here supporting this. As long as they print what is right, then we'll be OK.

We talked earlier about taking about the other advisory boards, which is a good idea. What about this new LHIN? Would you support it being added to here? It isn't an advisory. I don't know what it's going to be, actually, but would you support that?

Ms. Short: I would. If matters relating to the whole health care system are going to be discussed and debated, the LHIN, as we understand it—although we haven't seen the legislation—will be making some very key

decisions. It will have the ability to move programs and services between hospitals and from hospitals to the community and will be responsible for regional planning. I would think that the same would apply to a LHIN as it would apply to a hospital board.

Mr. Murdoch: That's it.

The Vice-Chair: Thank you very much.

Our next deputant is the Ontario Association of Police Services Boards. I don't think they are here yet. They are scheduled for 12:45 p.m. We will now take a recess of 10 minutes.

The committee recessed from 1226 to 1235.

ONTARIO ASSOCIATION OF POLICE SERVICES BOARDS

The Vice-Chair: Members, we're back in session. The next deputant is the Ontario Association of Police Services Boards.

Welcome. You have up to 15 minutes for your presentation and questions.

Ms. Mary Smiley: Thank you very much. I'll give you a very brief background on the Ontario Association of Police Services Boards. I know that a number of the members are quite aware of who we are and what we do, but just to make sure that we're all starting from the same starting point.

The Vice-Chair: Please state your name for the record.

Ms. Smiley: My name is Mary Smiley. I'm the past president of the Ontario Association of Police Services Boards.

The Ontario Association of Police Services Boards, the OAPSB, is an organization made up of members of civilian police governance boards from across Ontario. We have well over 85% of all police services boards in Ontario as our members, and they range from the very large urban municipal services to the section 10 contract boards that are right across the province.

The association has been working for over 43 years to assist and support police services boards through the provision of a wide range and number of services. The organization's primary objectives are to foster the discussion of police governance issues, ideas and best practices among the membership, to consider matters of provincial interest which affect policing services and to formulate responses at the policy-making level from the perspective of civilian police governance.

Bill 123 is a private member's bill that we have taken a serious look at because of the content of it. Police services boards and their meetings are presently regulated by the Police Services Act and some provisions of the Municipal Act. All police services boards must enact a procedural bylaw to guide their meetings in an open and transparent manner. Subsection 35(3) of the Police Services Act currently provides that meetings conducted by a board shall be open to the public and that notice be published in the manner determined by the board. Subsection 35(4) also provides for certain provisions which would allow the public to be excluded from the meeting.

The OAPSB supports the concept of open meetings but has concern about the extent to which this bill overlaps and in some cases conflicts with the current legislation governing meetings for municipal councils and their special-purpose bodies.

The system for police services boards is working well for the board, the service and the public, and the OAPSB cannot support any of the proposed changes. Some areas of concern are:

The Police Services Act contains a number of principles, one being the need to ensure the safety and security of all persons and property in Ontario. Police services boards require the ability to discuss items in camera to maintain this level of security.

Bill 123 proposes that the minutes must be clear and neutral and contain sufficient detail to adequately inform the public of the main subject areas considered, any deliberations engaged in and any decisions made.

Bill 123 further provides that not only the public minutes but the in camera minutes must be made available to the public, but may remove details that would reveal any information that was the basis for excluding the public, but shall not remove any more details than are reasonably necessary. Clause 6(1)(b) of the Municipal Freedom of Information and Protection of Privacy Act provides an exemption from release for records that "reveals the substance of deliberations of a meeting of a council, board, commission or other body or a committee of one of them if a statute authorizes holding that meeting in the absence of the public."

It is our submission that the release of the confidential minutes proposed by Bill 123 would be in conflict with the privacy protection of the Municipal Freedom of Information and Protection of Privacy Act.

Section 4(c) of Bill 123 would require that the public be provided with the ability to attend an electronic or telephone meeting of the board. Does this also provide them with the right to appear as a delegation? This could present some procedural and technological issues which some boards may not be able to address, and that is especially clear to our section 10 boards, which are smaller boards.

It would appear that one of the main purposes of this bill is to provide a mechanism to challenge the correctness of a board's decision to deal with certain matters in camera and to have the matter adjudicated by the privacy commissioner. Under this bill it is very conceivable that a board could become bogged down perpetually in challenges to its in camera decisions. The time period set out in this bill for bringing complaints is one year after the matter came to the attention of the complainant. Would this allow a complainant to lodge a complaint for minutes discussed five or 10 years ago if the matter just came to their attention? This allows a significant period of time for complaints to be filed and most likely would happen well after a decision has been made and implemented operationally. Most procedural bylaws provide that if an

action has already been implemented, the reconsideration of that matter is not in order.

The OAPSB does not believe there is any cause for such a disruptive change to the existing system of open and transparent meetings. The association believes it would be much more appropriate for a complaint about a board's action to be first made to the board. This would enable the board to have an opportunity to address any issues prior to an appeal to an external oversight body. The OAPSB recommends that the external oversight body would more appropriately be the Ontario Civilian Commission on Police Services, OCCPS, which a lot of you may recognize.

However, the inspection powers proposed in Bill 123 are extremely powerful in that they suggest that the commission may, without a warrant or a court order, enter and inspect any premises. These powers are in excess of what a police officer has. The OAPSB has asked Minister Kwinter and Minister Gerretsen to take municipalities and their special purpose bodies out of this bill and leave any further discussions on meeting procedures for the Municipal Act review as part of a more comprehensive consideration of the rules that municipalities would have to follow. Once the Municipal Act review is completed, the implications of those changes on the Police Services Act and specific procedural changes for police services boards can be considered.

We'd like to thank you for this time and for the opportunity to present, and if there are any question, we'd be pleased to try and answer them.

Ms. Di Cocco: You may not have been made aware, but one of the processes in trying to improve this bill—let's put it that way—is to take a look at the schedule at the back. There will be amendments coming forward and the municipal councils will be a part of that. I guess we'll need clarification as I don't believe that police associations are included, but I'm not sure. I need to get clarification.

At the same time, as I said, it's about raising the bar. There's no intent to try to make it more onerous or that an organization cannot function. It's about the public interest and about raising the bar of transparency. That's what the intent is, and just to have checks and balances. I think you mentioned that you do have your meetings in the open, in public. This is just a check and balance to make sure that the in camera sections certainly follow suit in camera, because it's basically on an honour system now and that's what the intent is. I thank you for your submissions and certainly will clarify something for myself here, but also take into consideration some of your suggestions.

The Vice-Chair: Mr. Murdoch.

Mr. Murdoch: I think if they're going to be excused, there's not too much, but we're going to add the media to it, though.

Ms. Martel: It may be a comment more than a question, but it's my understanding, given some earlier discussions, that police services boards would be excluded, so we'll require some clarification on that. That was the premise I've been operating under for most of the morning, so I'm going to hope that's correct.

You raised a legitimate point about the inspection powers and whether or not police services boards are included. That's a legitimate point to make with respect to those who will be included.

I might just say that I remember the discussions around inspection powers with respect to another bill we dealt with about a year or so ago, which was Bill 31, essentially the provincial application of the federal privacy laws in the province. In that circumstance, the commission also has carriage of large sections of that particular bill and is responsible for that. There were some significant changes made to their inspection powers as a result of amendments to that bill, which I think could be looked at in this case. I just raise that as a possibility, because there were concerns raised as well. They had the same kinds of powers to deal with organizations that might be in breach of Bill 31, and there were some significant amendments that were made through the clause-by-clause process to deal with concerns about their power. So it is an option for Ms. Di Cocco to take a look at, and I just raise that here for her consideration.

The Vice-Chair: Ms. Di Cocco would like to speak again. Is there unanimous consent for that? Proceed.

Ms. Di Cocco: Thank you, Chair. It's nice to get unanimous consent here. It doesn't happen often in the House, does it?

The amendments that I'll be proposing will not include municipal police services boards. I had to double-check before I stated it. Certainly, when the time comes, those amendments will be brought forward. The groups that I've spoken to that are not included in the bill are groups such as regulatory or advisory bodies and, as I said, police services boards. We'll certainly submit to you the list when that is finalized.

Ms. Smiley: That would be good. Thank you.

The Vice-Chair: Thank you very much for your deputation.

Members of the committee, we'll now take a recess until 2:15 p.m. this afternoon.

The committee recessed from 1247 to 1415.

GEORGIAN SHIELD TAXPAYERS ASSOCIATION

The Vice-Chair: Members, we are back in session, the standing committee on regulations and private bills. We're dealing with Bill 123, An Act to require that meetings of provincial and municipal boards, commissions and other public bodies be open to the public.

The first deputant this afternoon is the Georgian Shield Taxpayers Association. Please come forward.

The Chair (Ms. Marilyn Churley): Sorry. Give us a moment. We're changing Chairs.

Thank you very much and welcome to the committee. If you could please state your names for the record.

Ms. Lyn Cowieson: Lyn Cowieson.

Mr. Jim Walden: Jim Walden.

The Chair: Go ahead.

Ms. Cowieson: Thank you for the opportunity to speak to you briefly today. Thank you especially for the effort you are making with this proposed legislation to protect public access to public bodies through open, accessible public meetings. This legislation is important to protect democracy in Ontario.

The Georgian Shield Taxpayers Association was formed in response to an ill-conceived plan by our township council to demolish 32-year-old administration office facilities and construct new facilities, at a cost of between $2.5 million and $5 million. This major construction project exceeds the entire annual budget for our small township and downloads a cost to the taxpayers exceeding 10% of the annual municipal tax bill for the next 20 years.

In response to this issue, the GSTA sponsored a study which over the past eight months has provided a comprehensive review of township procedures and finances, with a particular focus on this capital project. We have provided a copy of the Taxpayers Study Group report for your reference during your ongoing review of Bill 123. The study found significant violations of municipal bylaws and procedures in regard to purchasing, budgeting and fiscal accountability.

As we have pursued this matter with the Ministry of Municipal Affairs and the Information and Privacy Commissioner, there's an increasing body of evidence indicating that these transgressions may have been with intent. How does this construction issue and the TSG report relate to Bill 123? It is clear that the conduct of our municipality's business in closed-session meetings, for which no minutes are kept, has been the principal feature of these transgressions.

Section 8 of this report details the escalation in time our current council has spent in closed session meetings for which there is absolutely no public accountability. In fact, our council has spent in excess of 30% of its deliberative time in closed session meetings, many of which are conducted on a routine basis at every council meeting. Council time spent in closed meetings doubled in the first year of this term of office and will likely triple in the second year of this term of office.

These closed session meetings have been the instrument used to violate the right of the public to open and transparent government. In fact, since February 28, 2005, council has pursued an announced policy of deliberating on the building project only in closed sessions. As a result, a major capital project has been approved and implemented without any public debate of council or any opportunity for public input on the scope, plans or financial factors.

It can only be speculated that council's closed session meetings were purposefully employed to thwart opposition of the public to this project. Open and transparent deliberations are especially critical in a rural municipal jurisdiction such as ours where there are so few checks and balances—no press—to moderate actions by the municipal government.

It's important to note to you that the GSTA is currently involved with the process of an appeal to the IPC office regarding the many closed meetings in our township. We've provided information and observations to indicate that the vague rationale for the long hours of closed meetings often does not relate to many of the subsequent resolutions approved by our council when they rise and report. We've documented our concerns under freedom of information, seeking to have the IPC office consider: Are these hours of secret council deliberations and debates even allowed under Municipal Act subsections 239(2) and (3)?

1420

Time does not permit a comprehensive review of the TSG study today, but it is within this context that we are here to highlight some areas of Bill 123 that we believe may salvage and even redeem this provincial government's objective for open, accessible and transparent governance intended under the Municipal Act but not implemented.

First, this proposed legislation seems to be one of a kind in offering the interested and informed public some support under law to achieve implementation of the Municipal Act. Built into this legislation is a resource, the Information and Privacy Commissioner, who has a role to receive, review and respond to complaints from the public regarding secret meetings. Thank you for that.

The IPC's role as an investigative and enforcement resource is sorely needed at the municipal level of government particularly. Currently, the only recourse the public has for complaints about suspected illegal, financial and/or procedural actions of municipal councils is the court system, and taxpayers as individuals or as organized groups such as ours cannot afford the $60,000 to $100,000 price tag associated with the legal system response today. Simply stated, the Ontario court system does not provide an accessible or affordable option for implementation of provincial legislation. Plus, the timelines associated with Ontario courts are burdensome and unreasonable, while the IPC office currently responds within set timelines for review and action to provide a reasonable opportunity for timely and relevant resolution of complaints. At the provincial level, there is the Ombudsman for review of complaints with provincial offices, but there's no such resource to address and/or resolve municipal council complaints regarding standards and practices set out in the Municipal Act. Currently, there is no agent to intervene to maintain or protect the public trust.

Second, there are six areas I would highlight for further consideration to support successful implementation of Bill 123.

(1) If the goal is to inform all members of public bodies of their duties under this proposed legislation, I would suggest that the offences and penalties, section 22, should include the individual's personal obligations to be aware of this legislation and to understand their duties to comply. In other words, if you expect due diligence when members of public bodies vote on whether a matter is

appropriate for a closed session meeting rather than a public meeting, these individuals should understand that an offence under subsection 5(2) of this legislation would result in personal fines should they vote for or participate in a closed session meeting that is outside these exceptions.

Currently in Bill 123, it's only an offence to disrespect the Information and Privacy Commissioner's review and investigation process and subsequent order. However, it is not an offence simply to ignore the intent of this legislation. There is exemplary legislation to protect the safety of children and workers that requires responsible individuals to properly report observations, under penalty of personal fines, regarding possible risk or harm to others. However, Bill 123 does not include penalties to protect the public. You can participate in ignoring the law; it only penalizes those who get caught by a complaint of wrongdoing and fail to co-operate in the investigation or to act on an IPC order. To protect the public trust and ensure the rule of law, it should be an offence, with penalties, to knowingly participate in breaking this law. Currently, like many sections of the Municipal Act, I see no consequences for those who simply choose not to comply with the rule of law.

(2) Notice of meetings in section 4 states, "shall give reasonable notice to the public." I submit that "reasonable notice" should be clearly defined to ensure that there is fair and equitable interpretation for this time frame across Ontario. I can describe meetings that were announced on a Web site, after business hours on a Friday night, for a public meeting Monday morning of significant interest to the general public. Unfortunately, only the council members who were contacted directly by phone or e-mail were present. "Reasonable notice" should be within a standardized time frame to give the public a fair chance to attend, or the same method of communication used to contact the members of the public body should be used to contact at least those individuals or groups who pay an annual fee to the township in order to receive notice of meetings.

Furthermore, the requirement of section 4 to post a clear, comprehensive agenda should be strengthened by prohibiting the amendment of such an agenda at the respective meetings unless there is a proven and unforeseen emergency. Once again, I could quote many instances where such methods have been employed by our township council to circumvent required public notice.

(3) Subsection 7(3) of the proposed act requires minutes to be available to the public at the same time as they are made available to the members of the public body. In accordance with the previously discussed requirements for a standard to be imposed on what constitutes "reasonable notice" of meetings, we submit that a similar standard should be imposed on the posting of minutes at a reasonable time before the subsequent meeting. To not do so may provide inadequate time to input to the agenda of the subsequent meeting. It's been our experience that minutes are generally not available until the workday preceding a meeting, which clearly provides insufficient time for meaningful input from the public to their councillors to inform the deliberative process.

(4) Although there is no section addressing this issue, it is submitted that public bodies, such as municipal councils, should be compelled to provide reference material at each meeting which has been supplied to the members of that deliberative body, unless it is being displayed electronically at the meeting. The principle being recommended is that meetings open to the public should be conducted in such a manner as to permit the public to understand the proceedings. Councillors sitting at a table and referring to sections of a report that only they possess provide little coherence to the observing public.

(5) Subsection 5(2) defines subject matter areas where the public may be excluded from all or part of a meeting. Subsection 5(3) requires a motion clearly stating the nature of the matter to be considered at the closed meeting. It is submitted that simply reciting a clause under subsection 5(2), without relating it to a specific matter, should not be considered as "clearly stating" the nature of the matter under consideration. It has become the practice of our township council, and others, to simply quote the legislation as justification for entering closed sessions. It's submitted that the proposed Bill 123 should precisely define that each specific item to be discussed in a meeting at which the public is excluded must be specifically referenced.

(6) What constitutes a meeting? It seems a simple enough question, and section 3 of the proposed legislation addresses this point. However, it is unclear to me in section 3 when a committee is a committee that would be obligated to obey or implement this legislation. The definition of a committee of council may be stated elsewhere, but I would highlight our experience in the township of Georgian Bay, where a building committee, named in minutes and council resolutions, is not defined by our council as a formal committee for purposes of access to public records under freedom of information legislation. Therefore, the building committee, comprised of over half of council and a few administrative staff, has failed to comply with the township's procedural bylaws: no notice to the public of meetings, no minutes, no agendas, and no meetings open to the public. The township claims that the building committee referred to in township and district minutes of meetings is an informal rather than formal committee of council, and therefore it does not exist and is not obligated to fulfill the requirements of township bylaws or provincial legislation. This seems a travesty of open and transparent governance, and therefore I submit that meetings that Bill 123 applies to should be clearly defined for fair and proper implementation of this legislation.

Ladies and gentlemen, in summation of our above recommendations, it's noted that the short title of the act is the Transparency in Public Matters Act. Transparency is not just a matter of the right of public access to meetings. Transparency is a combination of timely notice of agenda and meetings, timely access to records of

meetings, and the provision of information to permit all present to understand the meeting proceedings.

I thank you for the opportunity to share my comments regarding the legislation with you.

We are a small township, with approximately 2,200 full-time residents and another 85%, 12,000, additional taxpayers who are seasonal. I am hopeful that our disturbing experience with secrecy and closed meetings will be relevant to this committee review. However, even without benefit of my comments and suggestions, on behalf of the taxpayers of Georgian Bay, we implore you to support this legislation for approval by the Ontario Legislature. It's important that Bill 123 become law. It is sorely needed for the protection of democracy in Ontario, particularly at the municipal level, where Canadian principles of freedom, human rights and democracy are so much in jeopardy, with few options for legislated scrutiny, intervention and public protection.

The Chair: Thank you very much. You have about two minutes left. Did you want to add anything, or we'll open up to questions?

Ms. Cowieson: Questions.

The Chair: We only have two minutes. We'll start with Mr. Murdoch.

Mr. Murdoch: You mentioned the Municipal Act. Would you be happy if the Municipal Act was tightened up to include some of Bill 123, rather than having a new act to regulate municipalities and other agencies?

Ms. Cowieson: We'd be very happy to have the Municipal Act tightened up to protect the public.

Mr. Murdoch: So you wouldn't object if this bill didn't happen but it happened through the other bills that regulate the agencies that we're talking about?

Ms. Cowieson: As long as it happens within our lifetime.

Mr. Murdoch: You're dealing with government; I don't know.

The Chair: Ms. Horwath, did you have a quick question?

Ms. Andrea Horwath (Hamilton East): Actually I don't. I really appreciate the presentation.

The Chair: Ms. Di Cocco?

Ms. Di Cocco: Thank you very much for the comments that you've made and the suggestions that you've provided to strengthen the bill. This is what this process is about. I want to thank you for that, and I'm sure we're going to see it in our lifetime.

The Chair: Thank you very much for your presentation today.

Ms. Cowieson: Thank you for the opportunity.

1430

ASSOCIATION OF MUNICIPALITIES OF ONTARIO

The Chair: I would now call the Association of Municipalities of Ontario.

You have 15 minutes. Please state your names for the record.

Mr. Roger Anderson: Thank you, Madam Chair. My name is Roger Anderson. I am chairman of the region of Durham and president of the Association of Municipalities of Ontario. To my right is my boss, Pat Vanini, the executive director of the Association of Municipalities of Ontario.

Ladies and gentlemen, as I said, I am president of the association of municipalities. We're here today to give you our comments on Bill 123. As usual, it's a pleasure at any time to have an opportunity to address a standing committee of the provincial government.

The Association of Municipalities of Ontario is, I believe, well known to all members of this committee and, as a matter of fact, to the House. AMO represents Ontario's municipal governments and advocates on behalf of those governments and the property taxpayers and citizens they represent.

AMO understands the need for transparency and accountability in decision-making and is therefore very proud to represent municipal governments, which are often characterized as the most accessible order of government and, one could argue, as a result, possibly the most transparent and accountable level of government. Given this, we are thankful for the opportunity to share our perspectives with you today.

AMO is requesting only one change to this bill: to delete the references to the municipal government. Why we are asking this is simple. This bill, if it proceeds, could very well obstruct the work that is underway under the Municipal Act, which is currently being revised. That work is part of a pre-consultative, analytical and comprehensive review process that has been going on for some time. It is a review process that is benefiting from legal expertise and practical operational considerations. It is a review that is benefiting from a principled approach followed by all parties.

The bill before this committee, for municipal government, has the potential to create a paralysis in decision-making. Greyness, operational interpretative challenges: These are elements that lead to even more legal challenges and red tape.

Municipal governments are supporters of accountability and openness but also recognize that there need to be reasonable expectations and limits. There are groups whose very livelihood depends on controversy. There are those who, if they don't like the outcome, will attack the process.

Councils are charged with making the best-informed policy decisions for their communities. In this province, there are some 445 municipal governments. If you assume, as a minimum, that each municipal council meets once a month and makes about 20 decisions per meeting, that means there are well over 100,000 decisions being made per year, and that's a very conservative number at best. Every decision is not necessarily a popular decision. Each of you in this room is aware and knows that you can't possibly please all the people all the time.

So that is why today we are making but this one request: to delete references to municipal governments

and to say that, yes, it does make great sense to let the discussions of municipal accountability and transparency be fully informed, where the entire picture of accountability for municipal government can be put before the Legislative Assembly and the public.

Let the Municipal Act consultative process proceed on its own separate track and not be hijacked through this bill. That is the action of this committee that we can support. Nothing more and nothing less could be acceptable.

You're probably all asking yourselves as well what the Municipal Act review has to do with accountability and transparency. Well, it has a lot to do with it. It outlines processes and procedures that act as safeguards for the public to ensure transparency. Notice provisions are being examined in detail. As elected officials, we recognize that if we do not provide our constituents with notice to provide their input, then our decisions may not be as informed as they should be. As elected colleagues, you know as well as I that if the public are not involved, this can haunt us forever, and it will certainly haunt you until the next election. We are seeking greater flexibility in providing notice to the public in forms that are more effective for all of us. While this bill deals with this area, again, we believe that it should be developed and determined within the review of the Municipal Act.

We are also discussing in great detail the need to give provisions for municipalities to appoint an integrity commissioner who would have adequate powers to undertake a full and complete investigation, if necessary.

The review is also addressing the opportunity for individual municipalities to implement lobbyist registries and codes of conduct for all of us—all of this to ensure that municipal governments remain the most responsible and accountable governments to the people they serve and in a manner that they, the people, believe makes sense.

Now I would ask you: If the Municipal Act review is addressing these and other issues around public process, and the review has been informed by legal experts, the private sector, special interest groups and municipal government experts, why not allow municipal governments to be guided by the appropriate piece of legislation, that being the Municipal Act?

I also want to speak about Bill 123's provision around open meetings. As fellow policy decision-makers, you know how important it is to be able to properly understand an issue before you discuss and debate that issue in public. Doing homework involves learning from others, including staff and colleagues.

I want to share a quote with you from a justice of the Ontario Court of Appeal in a dissenting opinion in the case of Southam Inc. v. Hamilton-Wentworth (Regional Municipality) Economic Development Committee:

"The present issue, however, concerns gatherings of commissioners when no business is transacted; when, rather, they confer together and with each other; and when they collaborate in doing what may be called their 'homework.'

"It is important that they do so freely and without restraint. Like all who have the responsibility of making important decisions, they need an opportunity to express, exchange and test ideas, to deliberate freely, off the record, and without the restraint of outside influence.

"Freedom of discussion and the exchange of ideas is essential to an understanding of a problem. It cannot be satisfactorily accomplished under a spotlight or before a microphone."

I want to emphasize that the justice's point here is that municipal councillors need the opportunity to do their homework and ask questions off the record and without the restraints of outside influence.

I would ask, if you had to make a decision on a critical issue like source water protection, property tax reform or, more importantly, social service delivery and had absolutely no education, had no training in these fields, wouldn't you want to be able to ask staff some basic questions to ensure your understanding of the issue? Would you want to know if your knowledge and understanding of the facts was similar to that of your fellow colleagues?

We believe that Bill 123 could very well cripple municipal councillors this way, and it concerns me to think what the consequences might be—possibly, important decisions being made without a thorough understanding of the issues. I would ask you: Does that serve the public's best interest? Does that meet the expectations and the responsibilities of an elected official? The last thing we can afford in order to make strong communities is a paralysis of the decision-making process because there will be debate on when a meeting is really a meeting.

In conclusion, I've already let you know our position: simply that we want municipalities removed from this legislation. We do not disagree with the need for transparency and accountability in the decision-making process under any circumstances. The Municipal Act review is the appropriate place for municipalities to be delegated their authority on how to do business. To pass Bill 123 with municipal governments cited in advance of the comprehensive review of the Municipal Act being complete would be putting the cart before the horse.

1440

Thank you very much for allowing us to make a presentation to you today. If you have time for any questions, we'll be happy to try and answer them.

The Chair: Thank you, Mr. Anderson. We do have about five minutes for questions and we'll start with Ms. Horwath.

Ms. Horwath: I was curious about your description of how a municipal representative might go about doing their homework.

I don't know if you're aware: I'm actually from the city of Hamilton. That was what I did before I was elected provincially. But I can tell you that when I was a municipal councillor, I did my homework and I know that most of my colleagues did their homework by meeting with staff and finding out what we didn't know prior to any particular item being put on an agenda. So I'm just not sure—I think I need you to describe for me

what you mean by doing their homework and why that needs to be done in a committee format as opposed to being done as an individual responsibility of the councillors or the aldermen so that they go into a committee meeting prepared to debate and discuss the issues before them.

Mr. Anderson: I think any councillor who walks into a meeting without doing their homework would be foolish, to say the least. I don't know how big the city of Hamilton's council is, but let's say it's a council of seven and four of them got together to discuss their views or their interpretation of some sort of committee report or some item that they were not familiar with. Under this legislation, you'd have to hold a public meeting to do that, and that would be a problem, because if you can't, as a group, talk amongst yourselves, it would be like saying that a provincial retreat, which you all have and most councils have, would have to be public. Where do you get your decisions and your direction if you are afraid to—and believe it or not, some people are afraid to ask a question on some issues because they really don't know what might happen if they do because they just aren't well enough aware of the situation.

You know, there isn't a councillor who doesn't ask a question out of sincerity and without the best intentions. I've only been in politics 20 years, and I've only seen it happen once or twice, but there are some pretty stupid questions that most people would think are absolutely common sense. But, you know, when you get your answer, that stupid question might have been the right thing to ask. But if you didn't ask it or you were afraid to ask it because of the situation you were in, you wouldn't have known, and it's unfortunate.

The Chair: Thank you for your answer. Just in the interests of everybody getting an opportunity here, we'll go next to Ms. Di Cocco.

Ms. Di Cocco: Thank you very much. Actually, Ms. Horwath certainly asked one of the questions I was going to ask, which is about doing homework. I sat on city council for a year and a half. We have eight councillors and I don't really relate to your explanation of this inability to do your homework if you don't sit down with a majority of councillors to discuss it. There are other ways that one does their homework that I don't think has anything to do—

Mr. Anderson: Let me clarify: I didn't say—

Ms. Di Cocco: If I could just ask—

Mr. Anderson: No, let me clarify, ma'am: I didn't say you had to sit down with a majority. I said, what happens if you were sitting down with the majority. I've been in restaurants where the majority of my council have walked in.

Ms. Di Cocco: I think there's a precedent in the United States that has an open meetings act in Michigan that discusses this. They have had these things happen and it's actually gone to court there. So there are precedents for it.

What this bill is intended to do is to raise the standard for transparency and openness. The question I have is, what ability is there for the general public when a council—we have two judicial inquiry reports that talked about the veil of secrecy and decisions made that impacted on the municipality for millions of dollars because of decisions made behind closed doors that were unnecessarily made behind closed doors. The point I'm trying to get at is, what mechanism is there for the general public or for anyone, any person, to be able to say, "We understand that this municipality or this public body went into camera unnecessarily"? What mechanism is there now to investigate, and what penalties are there?

The Chair: I'm going to ask you to answer that rather quickly, because we have one more question, and our time is rapidly disappearing.

Mr. Anderson: I saw the document she was holding up. It was a decision made by, if I'm not mistaken, staff that caused them some grief by politicians who met privately. But I've got to say to you, Madam MPP, in all fairness, I don't know of any council that makes decisions behind closed doors unless they're related to (a) land acquisition or (b) [*failure of sound system*] issues. If you have a particular instance where a municipality is doing something wrong regularly, then you should deal with that municipality. But I'll tell you, I don't know them. If you'd like to tell me who they are, I'll be happy to go and visit them for you, but—

The Chair: Perhaps you can take it outside later.

Mr. Anderson: No, it's a bit of a misconception, Ms. Churley, and I would suggest that—

The Chair: I understand, and I wish there were more time. I do want to give Mr. Murdoch the opportunity to ask a quick question as well.

Mr. Murdoch: Just a quick one. There are some exceptions, and I wondered, if this does go ahead—you should work with those to make sure that some of your concerns are addressed under the exceptions, that you can go into camera. We have to strengthen that to make sure it's OK if this goes ahead. The other one I just wanted to mention, and no surprise, is that the media is all for this bill, but I thought if we could add them as one of the agencies that we look at, then maybe that would help.

Mr. Anderson: AMO does have a process of training councillors that we do annually, and if the media wants to have public meetings, that would be fine. I can't wait for them to sit in on a cabinet meeting.

The Chair: Thank you very much for coming before us today and giving your perspective. We appreciate it.

ONTARIO PRESS COUNCIL

The Chair: The next people I will call forward are the Ontario Press Council—one person, Mr. Sufrin. Welcome to the committee. If you could just state your name for the record, and you have 15 minutes.

Mr. Mel Sufrin: Thank you for inviting the Ontario Press Council. My name is Mel Sufrin. I'm the executive secretary. I was here four years ago on much the same assignment. I'd like to think that it won't be necessary to come back again. However, that remains to be seen.

I have a very brief statement I'd like to make, and rather historical. The Ontario Press Council began campaigning in the 1970s—we'd like to emphasize the year—for clear and reasonable rules that would determine whether a meeting of a municipal body could be closed. It was supported by a collection of horror stories received from member newspapers. We have 230 newspapers now, by the way. For example, it happened from time to time that a municipal council would deal with the whole agenda at a closed session, then open the meeting to rubber-stamp decisions.

The press council, the Canadian Newspaper Association, and the Ontario Community Newspapers Association ultimately were satisfied with legislation that listed eight subjects for which meetings or parts of meetings of municipal bodies may be closed. They were, as I'm sure you know, security of property, personnel matters involving an identifiable individual, including municipal or local board employees, acquisition of land, labour relations, litigation, solicitor-client privilege, and subjects relating to information sought under the Municipal Freedom of Information and Protection of Privacy Act.

They were contained in the draft of updating legislation in 1999, but it was further proposed that the same section would give each municipality the authority to select one other subject of its own choosing for which it could close the meeting. The press council and community newspapers association expressed concern that with this provision, the rules for closing meetings could be different from one municipality to another, and that councils could well decide to establish unreasonable grounds for excluding the public and the press. As I recall, the rule was withdrawn.

While existing rules are a great improvement, it appears that there may be flaws.

Three years ago, the mayor of Hamilton held what he described as an informal gathering attended by himself and nine of the 15 members of city council to consider concerns about the council's working relationship with senior management.

1450

The Hamilton Spectator complained to the press council. I might add that, over the years, council has dealt with approximately half a dozen complaints from newspapers against the public or members of the public. It's a rare thing, but it does happen. The newspaper did not take issue with the idea that the meeting should be held in camera, since discussion was to focus on an identifiable employee, but its concern was that there was never a formal notice of meeting, as required under the Municipal Act. The mayor challenged the Spectator's description of the meeting as secret, saying there was no attempt to conceal the gathering from anyone who might have seen council members arriving and leaving. The press council upheld the complaint, saying the public and press should never have to learn by chance or a leak that a meeting of a municipal council has been convened.

The eight exceptions in the open-meeting rules contained in section 5 of Bill 123 are a refinement of existing regulations and are generally acceptable to the press council. What are seen as likely to discourage a temptation to flout the rules are the proposals to permit members of the public to complain in writing to the Information and Privacy Commissioner and to provide for fines of as much as $2,500 for contravention of the rules.

If the press council has a reservation, it involves the authority of the Lieutenant Governor in Council to designate those public bodies that are to be covered by the rules. Ideally, it would like to see all bodies that spend public money under that umbrella. Thank you very much.

The Chair: Thank you very much for your presentation. We have lots of time for questions, and we start with the government side this time.

Ms. Di Cocco: Thank you again for coming before this committee on this bill.

Mr. Murdoch, I can imagine what your question's going to be as we move around the table.

I guess the important aspect for me is what I call the three pillars of democracy. We've got them in this, as I think in any society. We have government, the people and the media that provide information. Freedom of that and accessibility of information is probably, in my humble opinion, what protects the integrity of our democracy. That's what the intent of this bill is.

You mentioned that there is one area you see that would strengthen the bill. If you could just repeat that, because I didn't take note of it.

Mr. Sufrin: It's very simply, cast as wide a net as is reasonable. I've read some of the comments of previous presenters who suggested that their rules and regulations are quite adequate to protect the public. That may be true, and I will accept that some organizations probably do the job pretty well. I'm afraid, though, that if you don't cover as many as possible of the organizations that spend public money, you leave loopholes. That's the danger I see.

Ms. Di Cocco: Just one more quick comment, if I may, Chair.

Just to set the record straight, I believe the previous presenter had mentioned that the inquiry I was looking at said that it was the staff who had made the mistake. I just want to clarify that in the judicial inquiry of 1998 into the Clearwater land deals, it definitely talks about—and I have it in front of me. It says, "I am profoundly disturbed by the cloak of secrecy the board used to hide this transaction...." The other one was that "there is much to be condemned in the secrecy with which the council plotted and carried out their strategies...." That comes from Justice Killeen in his report. So I just want to clarify that, because it was brought up previously that the report dealt mainly with some issues with the staff.

The Chair: Thank you very much, Ms. Di Cocco. I'll now move to Mr. Murdoch.

Mr. Murdoch: Welcome to our gathering here. This bill's mainly to scrutinize people on public bodies who spend public money, and a lot has been talked about the

politicians and things like that, and that the media is part of this, which is fine.

I just will ask you, who scrutinizes the media?

Mr. Sufrin: It just so happens that the press council scrutinizes the media of Ontario, the 230 newspapers. It's required to respond to any complaint from readers that is in writing, and if the reader is not satisfied with the complaint, the council then decides whether to adjudicate that complaint. If it holds an adjudication—and it doesn't adjudicate every complaint that it deals with—it then issues a ruling either upholding or dismissing the complaint with its reasons, and the newspaper in question is obligated by its membership in the council to publish a fair account of that ruling, including the text of the adjudication portion itself.

We cannot fine newspapers. We can't penalize them in any other particular way, but it's kind of embarrassing to have a complaint against you upheld. We like to think that they will probably avoid doing the same sort of thing in the future.

Mr. Murdoch: Something that might be good, then, is to publicize that a little more, because I don't think the public understands that or know that they have that avenue to complain or have their concerns addressed. If it's out there, with all the newspapers you're involved with, it might be something that somewhere along the line somebody, in one of their editorials, could certainly explain to the public.

We've heard from different newspapers here today and different people in the press that this is such a great bill, that they'll get a chance to get in there and maybe print some more whatever. I don't know whether you've had many cases to deal with, but I just think that if that's the case, if the public knew more about that, it might make the public more at ease. This is what this bill's trying to do. I'd like to see the media included in it, but I know we can't, because you're not part of government. If there was a way—

The Chair: Would you wrap up, Mr. Murdoch, so we can get an answer and then move on?

Mr. Murdoch: OK. Then I'll challenge you to maybe make this process more public.

Mr. Sufrin: We did set up a Web site a few years ago, and that seems to be generating a certain amount of activity. Further to that, newspapers are required by their membership to publish on regular occasions the name and address of the press council and a very brief idea of what it does. I can't say that we're as well-known as we ought to be. I'm sure not going to go out—I'm kind of old for travelling around the province one more time.

Mr. Murdoch: OK.

The Chair: And I'm sure Mr. Murdoch is not insinuating that he's ever been misquoted.

Mr. Murdoch: Oh no.

The Chair: Oh no, or misrepresented in the press.

Mr. Murdoch: We don't have time to get into all that.

The Chair: I would now move on to Ms. Horwath.

Ms. Horwath: I appreciate your presentation. Two quick questions. You indicated that you had heard some of the previous presentations. You were in the room when the gentlemen from the Association of Municipalities of Ontario made his presentation. I'm wondering if you would agree with him that there are cases where perhaps a municipality, for some reason or other, should be able to have meetings without media involved, other than the standard ones around personnel and land acquisition.

Mr. Sufrin: If it's a meeting, I think it should be open. If you want to talk to another councillor about subjects that are going to be dealt with, that's another story. But a meeting is a meeting and you are supposed to publish an agenda and make a proper announcement of the meeting. I don't see why you can't do that.

Frankly, I don't see why you can't come before a meeting and ask a dumb question. It's the only way you're going to learn anything. I ask a lot of them, and it's very helpful in the long run.

Ms. Horwath: Usually, there are about 10 other people in the room who had that same question but not the courage to ask it.

I have another question, very briefly. In my own community there have been questions raised about the appropriateness of certain articles being placed in certain places within *[failure of sound system]*, putting opinion pieces in news pages, so that people might not actually realize it's an opinion piece as opposed to a news piece. So in the vein of accountability that my esteemed colleague was asking you about, do you have any opinion on that?

1500

Mr. Sufrin: It is a bit of a problem for some people, I agree. At one time, the so-called op-ed page, opposite the editorial page, was reserved for that kind of comment. It isn't done that way any more. What a lot of newspapers have done, and I think it's a good idea, is putting a picture with the writer of a column. When you place that picture there, I can't believe anybody would not know that this is somebody expressing opinions as well as writing information.

The other thing is to put in a comment somewhere in the body of the story in large letters to say that that's what this is. I agree that it should be fairly clear to any reader, but there's no way you're going to be able to put all your comment on one page as you used to do.

The Chair: Thank you very much for your presentation.

CANADIAN CIVIL LIBERTIES ASSOCIATION

The Chair: I'd now like to call on representatives from the Canadian Civil Liberties Association. Go ahead.

Ms. Noa Mendelsohn Aviv: Thank you. Good afternoon, Madam Chair and honourable members of the committee. I was very much hoping to capture your full attention today. I've been planning this for about eight and a half months, so I hope it works. I'm happy to be here to speak with you this afternoon.

The bill under discussion seems rather different—

The Chair: Could I interrupt for one moment? Because the mike wasn't on, could you please state your name for the record?

Ms. Mendelsohn Aviv: Certainly. Noa Mendelsohn Aviv, director of the freedom of expression project for the Canadian Civil Liberties Association. I'm here with my colleague, Jeremy Patrick, policy adviser for the CCLA.

The Chair: Thank you. Go ahead.

Ms. Mendelsohn Aviv: As I started to say, the bill under discussion seems rather different than many legislative proposals which I imagine are seen by this committee. After all, the content of it—openness and transparency in public bodies—is the very stuff and substance of this House and of this committee. It's the reason we're here today in an open forum and it's the reason that the various organizations and individuals—and I see there have been many of them who wish to be heard on this matter, including ourselves—are being given this opportunity to make our contribution. It might be said, then, that this bill is unusual in just how obvious it is in the principles that it stands for and just how uncontroversial it is in a society that values democracy. I'll come back to this point in just a moment.

Firstly, I'd like to share with the committee a number of experiences from our own organization. The Canadian Civil Liberties Association is a not-for-profit organization that represents thousands of members across Canada. We have been around for over 40 years and, in that time, have spoken out on hundreds of issues dealing with our fundamental rights and freedoms. Needless to say, in that time we have amassed a great deal of experience and some not insignificant knowledge in these subject areas. Nevertheless, sadly, there have been numerous occasions on which we have found ourselves unable to address various public bodies on matters of public significance. The reasons for this may have been entirely inadvertent and accidental; nonetheless, any contribution we may have wished to make went unheard.

Some of the reasons for this have included: The agenda was published too late to learn of its content or too late for us to be able to make ourselves available to address it; items were added to the agenda at the last moment; for reasons unknown, our request to address the body was not granted; and my favourite of all, according to the body's procedural rules, the deadline for requests to be heard was earlier than the date of publication of the agenda, so in the absence of a time travel machine, one could not know the topic on which one was supposed to request to speak.

If this is the experience of an organization such as ours, we can only imagine how difficult it must be for organizations that are not staffed by professionals or, worse still, for individuals who nonetheless have an important matter they wish to discuss and perhaps a brilliant contribution which they wish to make. Therefore, we have a very clear organizational interest in seeing this bill enacted as law, as would any individual or any organization that has ever been affected by a decision of a public body. It's hard to think who wouldn't be.

There is an even more obvious public interest here, and that is to enhance the transparency and accountability of public bodies in this province. To quote from some of the courts in this country, one has said:

"It is fundamental to a healthy democracy that its process be easily scrutinized by the public that it is designed to serve. The importance of transparency and accountability in the democratic process cannot be overemphasized."

And another compared public administration to the justice system and said:

"Public trust and fairness in public administration are values transcending all others. These values complement each other. It is difficult for one to exist without the other.... Transparency of process is as integral to the building and maintaining of trust in matters of public administration as it is to the justice system itself."

Furthermore, public access to legislative deliberations is a cornerstone of democracy. After all, it is in the public interest that people vote on rational grounds, I would think. It would therefore be evident that in order to do so, people need to know what it is that their representatives are doing. That can only happen when bodies function in a public and open way.

For openness to have real meaning, it is equally clear that people would need to know in advance about the various actions to be taken by their representatives and public bodies, including the time, the place and, most of all, the content of these meetings. Obviously, people need the opportunity to address the decision-makers on those bodies, much in the same way as we said that we have been given the opportunity to address this committee here today.

All of this furthers the kind of participatory democracy that a country like ours thrives on. It is also an extension of the principle of natural justice, one of those principles being that people who feel themselves affected by an issue should have the right to be heard before decisions are made. This is helpful, not just for the individuals or organizations concerned; it is helpful, too, for the decision-makers, who are therefore able to connect to the community and to the individuals they represent, who are able to learn of the real interests at issue. Bill 123, thanks to Ms. Di Cocco, provides a comprehensive framework toward achieving these goals, and it is for these readings that the CCLA strongly endorses it.

While the bill does advance many of these important objectives, we would like to offer some helpful suggestions which we believe could make the bill even better. In the interest of brevity and in order to hopefully allow some time for discussion, I will try to limit my suggestions to a few key points.

Firstly, the notice period for meetings and the publication of agendas should be stated more definitively. Looking at other openness laws, this notice period could be set, presumptively, at five business days, subject to exceptional or exigent circumstances and with a view to

the different nature of the various bodies. The details of all of this could be set out in the statute or they could be set out in regulation.

In keeping with the idea of openness for government as well, and in order to best benefit from public wisdom, before such regulations are promulgated, the public could be served with advance notice on them. In this way, even the public bodies would have an opportunity to protect themselves. They could respond to the proposed regulations and have an influence over their final form.

Secondly, and very importantly, the bill should require that bodies reasonably allow for written and oral submissions, and they should publicize the procedure for doing so. Once again, the details of these requirements could be set out in the statute or in regulations, and these regulations could be put out in draft form for the public to address before they are promulgated as regulations.

1510

As part of the above procedures for public submissions, specifically there should be a requirement that the deadline for requests to make submissions should occur after publication of the agenda. Otherwise, as discussed above, how would individuals and groups know when matters of importance are going to be addressed?

Finally, the committee is urged to take a close look at section 5 of the bill dealing with open meetings and closed meetings. There should be an explicit statement that, in principle, meetings should be open unless the listed harms would result. These should be stated more clearly than the current list of exceptions as they appear in the bill, and they should be stated narrowly in order to articulate which harms are at issue.

For example, with regard to financial matters, many of which are very much of interest to the public, the exception should be simply for matters that would harm the legitimate financial interests of the body. Other financial matters need not be put behind closed doors.

Similarly, litigation concerning the body may actually be the subject of heated public debate. It should not be excluded in its entirety. The exception should be limited to tactics as well as opinions and instructions from solicitors, the disclosure of which would be likely to impair the ability of the body to protect itself. I'm not trying to draft the bill here, just putting forward some suggestions. I'm sure that the committee members will do a better job than I have in drafting them.

Even with regard to negotiations, of course, it is understandable that some aspects of negotiations do need to be kept secret, but not all do, and certainly not after the fact. The exception could therefore state that there need not be disclosures that would undermine the bargaining positions of the body.

As for personnel issues, the exception should articulate that it is permissible to close a meeting if disclosures would invade an employee's privacy in ways that do not pertain to his or her role on behalf of the body. It should also be clearly stated that the meeting should be open if the individual in question wishes for it to be open. A similar provision should also be stated in narrow terms regarding personal issues.

Finally, as to the exceptions around civil or criminal proceedings and the exception around safety of persons, while these do articulate a harm, they need to be stated in clearer, more definitive terms.

Given this comprehensive list, it does not seem necessary to have a general basket clause of the type that now appears in clause 5(2)(a) of the bill, which allows a general exception for other matters to be heard in camera. There is no such general clause, as you may well know, in the Municipal Act. There is no such general clause in the procedures of many public bodies that have their own rules. Therefore, it seems that this broadly stated exception is not necessary and would only raise concerns that many important matters might disappear behind closed doors. Should the committee come up with other matters that might need to be shielded from the public eye, it would be far better to articulate what those other matters are and then allow the public to respond to them specifically.

These suggestions aside, I would like to reiterate and emphasize my original point, and that is that Bill 123, if passed, would be an important step forward by this government and by this legislative House in promoting openness and transparency in public bodies, and the CCLA strongly endorses it.

As to the suggestion we have heard from some corners that the bill causes administrative burden, this is most unconvincing. After all, notice, agenda and minutes are published by most bodies in any event. Public submissions provide an opportunity for helpful suggestions to be made and for affected members of the public to be heard. If they do cost a small price, then this is the price but also the benefit of a working democracy. If we make the comparison to private bodies, even tiny, little charitable organizations, even corporations of one shareholder and one director—even these face countless administrative and bureaucratic requirements around publication of notice, agenda and minutes, reporting, holding of meetings and so forth. Even if they were not required to do so, most bodies would continue to do so because it is nothing more than good corporate practice. So it is hard to imagine bodies who hold the public trust being held to a lesser standard when the openness and transparency of public bodies is a key element of the democratic process.

To conclude, the Canadian Civil Liberties Association stands behind Bill 123 and urges the members of the committee to see it brought to light as law in Ontario. This would certainly be a credit to the current Legislature.

With this, we do wish to offer the committee a few suggestions for improvement of the bill and enhancement of its spirit: First, in regard to a notice and agenda publication period, we recommend five business days; second, by providing for the public to be able to make oral and written submissions; and finally, by acknowledging that meetings should be open unless there is an

articulable harm, such as those specific harms discussed above.

I thank you all for your time and for allowing us to participate in this excellent process.

The Chair: Thank you very much for your presentation. We've got a couple of minutes for questions.

Ms. Di Cocco: Thank you for a very thorough submission and thank you for the suggestions that you provided to enhance—and that's what this process is about, is to get ideas.

In your opening remarks, you stated that it seems so usual. I mean, this should be the practice. That's exactly how I felt when I embarked on a journey in 1991 to try to get some information. Basically, I feel exactly the same way. I think you articulated my shock when I found this, in fact, was not the case. Unfortunately, we seem to have evolved a culture in some of the—and I call it also a bit of institutional arrogance, that the institution understands better how to arrive at a decision sometimes.

I thank you for the submission. I wished it was uncontroversial. It should be uncontroversial, but if you were here for some of the submissions earlier, you could see that there is very much a push-back for the status quo in some cases.

I think what this bill is also doing is changing a culture. It is about increasing the transparency, not, "Well, you know, it's more convenient. Let's just do things in the back rooms." That's what the attempt is. But I do thank you for that, and I will certainly note your suggestions as we move forward with amendments and deliberate that. So thank you very much.

The Chair: Our time is up, but I'm going to allow Ms. Van Bommel a quick question.

Mrs. Van Bommel: Just a quick comment. I wanted to say thank you very much for your enthusiasm about democracy. You have so many different ideas and things that we should be thinking about. Could we have a copy of your presentation, please?

Ms. Mendelsohn Aviv: If I can be permitted, I should be able to get something to the committee by tomorrow.

Mrs. Van Bommel: Thank you.

The Chair: Thank you very much for your presentation.

We're going to move on. I understand that the next presenters, the Ontario Public School Boards' Association, cancelled this afternoon, but I wanted to check and make sure. Are they here? OK.

REGIONAL MUNICIPALITY OF PEEL

The Chair: We'll move on to the regional municipality of Peel. Thank you very much for coming this afternoon. After you're settled, if you can state your name for the record, you have 15 minutes.

Mr. Brian Loewen: My name is Brian Loewen. I'm a senior legal counsel at the region of Peel. I'm here actually on behalf of Kent Gillespie, who's our regional solicitor. Unfortunately, he was detained on important council matters and wasn't able to attend. In addition, Fred Biro, who is the chair of our Peel Police Services Board, was also unable to attend, so I'm here in both their steads.

I want to thank the Chair and the committee for the opportunity to make presentations on this important matter. I don't want you to take the inability of Mr. Gillespie or Mr. Biro to be able to attend as any indication of the significance with which we view these matters, because they are obviously very important to us.

I want to stress, and echo, frankly, some of the points that were made by the previous submitters. There's no question that this matter is almost a motherhood issue. There's no question that transparency and openness are something that are to be desired and sought for. Indeed, I think the regional municipality of Peel, among other municipalities, has furthered that and has done its utmost to make sure that, whenever possible, the meetings are held in the open. To my knowledge, there have been no significant complaints with regard to the way that our particular municipality at least has been responsive.

1520

Having said that it's a motherhood issue that everyone can support and get behind, particularly when you're talking about public bodies dealing with public money, there is a very real concern here that the devil is in the details. There are some very difficult changes in the view of the region of Peel that will significantly affect the ability of the municipality to deal with matters in an appropriate fashion.

I've provided you with a very detailed brief that outlines our position and sets out a number of issues that we see and the difficulties of the details of this bill. Obviously, with 15 minutes, I don't have time to walk you through each one, so I'm going to try and highlight a couple of them that can drive home our concerns with some of the particular details.

I'm going to focus on the details, but I don't want that to change our underlying position. We, the region of Peel, support the position of AMO and other municipalities who have said—and we support it—that it is most appropriate for these matters to be dealt with by municipalities and their local boards, pursuant to the Municipal Act. That is the appropriate forum. Directions, information, obligations and restrictions should be in one act, not in multiple acts. That would be our primary and overriding goal.

Having said that, I now want to turn to some of the details, if indeed you do pursue this. One of our main concerns, frankly, is the slightly different wording. I understand that there are exceptions in this act—section 5—that outline in various detail technically very similar provisions to what's already included within the Municipal Act. As a general rule, most of them are there. The problem is that the wording is slightly different, and it is a simple matter of legislative interpretation where, if things change, it must have a different intent. So the obvious result is going to be that the information commission is going to look at these and go, "Hmm. We no longer have something that we used to have. It must

be more narrow. So there must now be less of an opportunity for the municipality to discuss these matters in camera." Obviously, that was the intent.

Having said that, some of the matters are, frankly, objectionable, and I'm just going to go through some of them that particularly affect me as a solicitor. There is the change in the litigation exception. The provisions of Bill 123 do not specifically include potential litigation. That was included in the Municipal Act, appropriately so, so that the municipality can receive and obtain instructions and deliberate as to whether to launch an action, for instance. A similar provision is not in Bill 123. So it would lead to the obvious interpretation that if you're talking about something that hasn't actually been initiated, it doesn't count. You have to have it in public. That's a problem.

The provisions of the Municipal Act specifically refer to administrative tribunals. Many important matters are dealt with by administrative tribunals; the Ontario Municipal Board to name just one. It would be inappropriate for those important administrative matters not to be dealt with in the same way as any other litigation matter. There are important solicitor-client privileges that should and must apply.

With regard to the solicitor-client privilege, there is also a slight change. It's a minor change, potentially, and may not matter for most things, but the wording has changed from "advice" to "opinions." The possibility exists that a different wording suggests a different interpretation, and opinions from a solicitor would be more narrowly interpreted than advice from a solicitor. Therefore, the solicitor-client privilege that would normally attach to matters addressed by any other corporation, any other body, would be effectively released, waived—or an implied waiver would be granted—and therefore we could no longer, at any point in the future, try to attach solicitor-client privilege to those communications. That is of significant concern to the municipalities.

I think the bottom line, though—and in particular subsection 5(1), which deals with the general exception—is that every single decision would be subject to second-guessing by the commissioner, or the subject of a complaint, which would then result in second-guessing by the commissioner. That raises a significant concern, particularly in light of the very wide powers that are granted to the commissioner. The ability to overturn the decision of a council, an elected body, and give directions to that council causes great concern. I would note that the Ombudsman, who oversees the Ontario government's actions, does not have that power. It is appropriate that the Ombudsman is able to review and make a report and, based upon that report and the public embarrassment, if you will, the Legislature would normally take the appropriate action. But to give the power to an unelected official to direct and order and overturn decisions of an elected body is, frankly, not appropriate.

The final point of one of the differences—and I note that there are additional ones—is the change in wording from "personal" to "personnel." One would think that it's a minor change and that most matters won't be affected by that, but given the general theme and thrust toward protection of privacy and personal information, a complaint could arise as a result of discussions being held in public. The complaint could come from either a complainant who said, "You shouldn't have had it in camera; you should have had it in public," or the complaint could come from an individual, when council does hold an open discussion, whose personal information was the subject matter of a discussion in open council. Either way, both are going to go to the commissioner, and it's not beyond the irony of the matter that the council is aware of.

To the issue of contingent liability: There is a very significant concern regarding the contingent liability that could arise from a decision of the commissioner to overturn a decision of council, to void that decision. Needless to say, there are many matters that are subject to private deliberations, appropriately so. Just as one, I would note that the provisions of the Municipal Act allow for the acquisition and disposition of property, and the current provisions of Bill 123 do not. So the deliberations regarding those that would appropriately be for council to hold in camera no longer could be held in camera. If, for whatever reason, the council felt it was appropriate under (1) to do so, now we would be subject to a complaint and potential overturning by a commissioner of the initial decision. Needless to say, many subsequent decisions, actions, efforts and negotiations etc. are all pursuant to that initial decision, and the liability that would arise for an overturning of the initial decision could be extremely significant for municipalities, large and small.

I recognize that my time is likely running out. I'm not sure exactly how much I have left and I'd like to have an opportunity to have questions.

The Chair: You still have about five minutes.

Mr. Loewen: Why don't we open it to questions? I'd be pleased to take any questions that you may have.

Ms. Di Cocco: I want to thank you for your submission today. It's always interesting to hear comments by municipal bodies as well.

I just have a question in regard to the context of the spirit of this bill and strengthening the openness with which decisions are made. I referenced this before. I certainly learned a lot from a judicial inquiry that was held in the city of Sarnia. I have to say that if there was a capacity to overturn that decision, the taxpayers would have saved over $6 million, plus we're still paying for decisions that were made under a cloak of secrecy, and inappropriately so.

The overturning of a decision or the penalty that's imposed is only if it is found that that body did arrive at the decision inappropriately in camera, and that is what we don't have. It would have to be an inappropriate deliberation; in other words, something that should have been discussed in the open is now discussed in camera.

1530

Mr. Loewen: I understand that, but just as I indicated in my oral statement, and as I made more clear in the written submissions, the change in the legislation that you're proposing in Bill 123 does not include the acquisition of land. It is distinctly possible that a council may believe that under the general exception, those discussions regarding the deliberations should be held in camera. Given that the current Municipal Act certainly allows for those discussions to be held in camera, with the final decision, of course, being made public and open, the challenge to that decision to have the deliberations in camera could challenge the initial decision itself, period.

Ms. Di Cocco: I have a question as well, and I understand what you're saying and I appreciate that. This bill came forward about four years ago, when this discussion began as to more transparency. Has Peel, or any other municipality that you know of, in regard to strengthening and enhancing openness and transparency in decision-making, made any proposal to the Municipal Act or to the Ministry of Municipal Affairs to strengthen, to tighten up and to put some teeth into open meetings and a means of investigation and penalty? Has anybody within the municipal sector—I know there are lots of complaints about how the devil's always in the detail. If there is an intent by everybody to strengthen and raise the bar, if you want, on transparency, has any of that type of proposal been advocated by any of the municipalities themselves that you know of?

Mr. Loewen: I must admit that I have only recently come to the region of Peel; I've been here for six weeks. So in those six weeks, no, it has not come to my attention.

Ms. Di Cocco: Well, I guess it was a bit of a rhetorical question, and the reason I ask it—

Mr. Loewen: I understand. In response to that, I don't think anybody is going to object to the general concept that openness should occur, and I believe that most municipalities that I've been familiar with in my long and illustrious career will follow that. Certainly, the region of Peel and the clerk at the region of Peel are clear to councillors who want to hold discussions in camera: "Sorry; that can't be done." As you're undoubtedly aware, the Municipal Act includes the obligation to have a procedural bylaw. That is available and open and well aware to others regarding a notice, agendas, regarding all the rest.

Ms. Di Cocco: I guess my rhetorical—

The Chair: If you could wrap up very quickly, I'll give you another minute.

Ms. Di Cocco: The rhetorical question comes from the fact that I know that there has been some lobbying to actually enhance the capacity to go in camera.

Mr. Loewen: I am aware of those. With regard to the strategic discussions, the general group, I'm aware of those.

The Chair: Thank you, Mr. Loewen, for wearing three hats today. Thank you very much for your presentation

INSTITUTE OF CHARTERED ACCOUNTANTS OF ONTARIO

The Chair: I understand that Susan Smith and the University of Guelph have cancelled, so I will now call upon the Institute of Chartered Accountants of Ontario to come forward. You know the ropes here. Make yourselves comfortable, and before you speak, introduce yourselves for the record, please. You have 15 minutes.

Mr. Tom Warner: Thank you. I'm Tom Warner. I am the vice-president and registrar with the institute, and accompanying me today is Elizabeth Cowie, our director of legal and regulatory affairs.

On behalf of the Institute of Chartered Accountants of Ontario's 31,000 CAs and 3,500 CA students, I thank the committee for the opportunity to make this submission on Bill 123. Since 1879, the institute has protected the public interest through the CA profession's high standards of qualification and standards of practice, and the enforcement of its rules of professional conduct. Fulfilling these functions, the institute is funded completely by its membership and neither accesses nor disburses public funds.

We recognize that Bill 123 currently states that the provisions would apply only to certain specified public and regulatory bodies. However, the bill, as presently worded, provides that the list may be expanded by regulation to include other professional regulatory bodies such as the institute. We believe, therefore, that we have a direct interest in the subject matter of the bill.

The institute endorses the belief that a body dealing with public matters should do so transparently and should be accountable to the public it serves for its actions and decisions. We believe that our regulatory structures and processes meet the requirements of transparency and public accountability. The institute is governed by a council elected from among its members and four public representatives appointed by the government. In addition, public representatives [*failure of sound system*] and on the discipline and appeal committees. In addition, under the new public accounting legislation, the Public Accounting Act, 2004, the institute will be overseen by a new public accountants' council comprised of a majority of public representatives appointed by the government, including the chair and vice-chair. It will have oversight responsibility to ensure accountability and transparency on the part of the institute in respect of the standards for public accounting and the processes and requirements for regulating licensees.

The institute carries out its disciplinary functions through hearings that are conducted within the public purview, pursuant to the Statutory Powers Procedure Act and the provisions of the Chartered Accountants Act. The institute is also governed in its business functions by the Corporations Act. Under that act, we are answerable to our membership for our business, and accessibility to our meetings and minutes is addressed under that act. There is no public mandate invoked by institute business functions.

Overall, the principles and purpose of Bill 123 are laudable; however, the bill, as currently drafted, is overly broad in respect of extending its application to self-regulatory professional bodies such as the institute and, in our view, would impede our ability to carry out our statutory responsibility to regulate the CA profession in the public interest.

We have set out in our written submission a number of specific concerns that we have about Bill 123, and we have proposed recommendations for removing or addressing those concerns. I will not deal with these in this presentation this afternoon, but I hope that the committee will see that they are reasonable and appropriate in respect to professional, self-regulatory bodies.

The principal recommendation is that Bill 123 be amended to exclude self-regulating professional organizations from its ambit, and we would welcome any change that would provide for that exclusion. Thank you.

The Chair: Thank you. Does that complete your presentation?

Mr. Warner: That completes my presentation.

The Chair: I'm sure that Ms. Di Cocco is dying to clarify that very point, so go ahead.

Ms. Di Cocco: One of the aspects to the bill when it comes to the schedule at the back—it happened inadvertently, but it should not have included—there will be amendments that do remove all regulatory and advisory bodies. The intent was that it is the decision-making level. And not only that, the other part of regulatory bodies: They're not really paid for by taxpayers' dollars; they're paid for by the profession that pays into the regulatory body. You can rest assured that regulatory bodies and advisory bodies will not be included in the bill.

1540

I could have saved you some time, I guess, but I do have to say that sometimes, in the attempt to get a bill down, the member provides the idea or the principles and then it is legislative counsel—they do a great job, by the way; I'm not suggesting they don't. Sometimes there's some detail in there with the schedules that just was not—it actually went in inadvertently from an old bill that was written. I do apologize for the inconvenience, but I was glad to hear—and we learn more actually by listening to the functions of the regulatory bodies etc. I just want to assure you that it certainly was not the intent that it be in the bill.

Mr. Warner: We certainly welcome that and look forward to seeing that amendment. If there's any information or assistance we could offer in terms of achieving that, we'd be more than happy to assist.

The Chair: Mr. Murdoch has a question, but I must say, isn't it nice to win one every now and then?

Mr. Murdoch: I don't really have a question. I was just getting excited there for a moment. If they were included, then we could have included the media. If we were going to include you guys, we could include the media. So I thought maybe we're getting somewhere there.

The Chair: Thank you very much for your presentation.

CITY OF TORONTO

The Chair: We're a little ahead of schedule, but I will call on the city of Toronto to see if representatives—yes, indeed.

Good afternoon. Please state your name for the record; you have 15 minutes.

Ms. Wendy Walberg: Good afternoon, and thank you for the opportunity to speak to you this afternoon. My name is Wendy Walberg and I'm a solicitor with the city of Toronto's legal services.

I'm here on behalf of the city of Toronto to explain to you that the subject matter of Bill 123 is best addressed in other legislation: the proposed new City of Toronto Act and also the Municipal Act.

One year ago, Premier McGuinty announced that the province of Ontario and the city of Toronto would undertake a joint review of the City of Toronto Act with the goal of making Toronto more fiscally sustainable, autonomous and accountable, giving Toronto the tools it needs to thrive in the global economy, and reshaping the relationship between Toronto and Ontario. In announcing the City of Toronto Act review, the Premier referred to developing a mature new partnership with municipalities.

Sorry, I'm just going to try to move this. I'm not tall enough.

The Chair: Just for your reference, you don't have to lean right into the mike. It helps to move a little back from it.

Ms. Walberg: This City of Toronto Act review has been progressing since that date, and the Premier has committed to introducing a bill for a modernized City of Toronto Act before the end of this year. The terms of reference for the review outline the scope of the project in list form. That list includes the following topics: "democratic control, public participation and council accountability"; and "municipal government and procedures." There is direct overlap between these two topics and the subject matter of Bill 123.

Bill 123, if enacted, would govern the meetings of municipal councils and their boards. It would require that public notice of meetings be given, that meetings be open to the public, that the public be excluded only if specified criteria were met, that minutes be taken and that minutes be published. It would establish an enforcement procedure for violations of the bill, empowering the Information and Privacy Commissioner to enforce it. These are all matters that are best addressed in other legislation.

The fact that such matters as notice and open meetings are within the scope of the City of Toronto Act review is reiterated in the joint Ontario–city of Toronto task force staff progress report released in May of this year. That document clearly identifies democratic control and council accountability as the subject matter of ongoing discussion.

In closing, my message should not be misunderstood. Toronto supports in principle the openness of meetings and access to the public records of those meetings. Toronto does want to work with the province to address these matters and is currently doing so. The message that I have been asked to bring to you you today is that Bill 123 is not the place to deal with these matters.

The city of Toronto council, its committees, agencies, boards and commissions respectfully submit that the place to deal with these matters is the City of Toronto Act review. As Toronto is currently governed by the Municipal Act, I will add that the Municipal Act review is also ongoing and is the other appropriate place for these matters to be addressed in relation to municipalities.

The Chair: Thank you very much for your presentation.

We have plenty of time for questions. Mr. Murdoch.

Mr. Murdoch: I don't really have a lot of questions, just thank you. This seems to be a theme we're hearing, doesn't it? I don't think anybody's against the bill and its principles; it's just where it ends up in the big picture. You've mentioned the Municipal Act and the Toronto act. I think nearly every other municipality has mentioned that, and even some people who are upset with their municipality said, "As long as some of our concerns get addressed, we don't care what act it's in." So that just seems to be a theme that we're hearing. We appreciate hearing from you.

Ms. Di Cocco: You're absolutely right: This has been the theme of these hearings.

You may not know this, but my municipality of Sarnia has something in common with Toronto. The judicial inquiry I've been referencing all day into the local matters in Sarnia–Lambton that took place in 1998—the capacity for a municipality to hold its judicial inquiry. This request went to the Supreme Court of Canada. It was that judgment held there that allowed the MFP inquiry, I understand. So that's the link between the two.

This bill, ironically, comes from the lessons learned from this judicial inquiry. I know you've got the Bellamy report to contend with that talks about more openness as well. There's a great deal of reference, actually, to conducting the affairs and procurement issues and so on and so forth with more openness.

I certainly have one principle in bringing forward this bill: that public bodies raise the bar when it comes to openness and transparency so that what's put into place is a clear mechanism and it isn't just an honour system that is applicable; in other words, that there is a mechanism for investigation if there is a complaint and that there is a penalty, so that there are some teeth in being able to apply the standards of transparency and accountability.

I based my quest in regard to the responsibility that public bodies have that is different from the private sector in some instances. Right across the river from Sarnia, of course, is Michigan. Michigan has an Open Meetings Act that's been in place, I believe, since about 1976. If you take a look at some of the issues surrounding municipal councils and local councils that come under that act, I think the penalty there actually has a jail sentence attached to it. So it's quite stringent.

My experience and the evidence I brought forward in 2001 and up until now dealt with the need to put teeth into the transparency and accountability mechanisms in our public bodies—it comes from evidence. There are holes in our ability to ensure that these bodies that are making decisions do so in public except for exceptions. Right now, it really is on an honour system; that's my understanding.

I have been speaking with the policy people at the Ministry of Municipal Affairs and am cognizant of the ongoing discussions. This is a private member's bill at this point in time. The discussion about where it should be—not that it should be changed—so that the teeth and the strength and the spirit with which this bill has been proposed go into those avenues, whether it's in the Municipal Act, whether it's in the new City of Toronto Act that is being discussed, whether it's in the Education Act—I can go on.

1550

I guess what I am really—I won't say "struggling," but what I am advocating and tenacious about is that the principles that guide this bill became a part and parcel of that. As my colleague stated, it's not a matter of *[failure of sound system]* not so married to. The question is of an independent bill or a bill that fits into the *[failure of sound system]*.

The Chair: Thank you very much for your presentation.

S C MUNICIPAL SOLUTIONS

The Chair: Next, I will call on S C Municipal Solutions Inc.

Good afternoon, and welcome. If you could state your name for the record, you have 15 minutes in total.

Mr. Scott Somerville: My name is Scott Somerville. I am the president of S C Municipal Solutions Inc. My partner is Mrs. Theresa Caron, who regrets not being here today, but she's at a very open public meeting of the council of the town of New Tecumseth and asks me to give her regrets.

Mrs. Caron and I have had this company for a short period of time. You might wonder why an individual company, not government-related necessarily, is at this meeting, but we are both students of local government and have been for a number of years. We both served with the city of Vaughan. Between us, we've got 60 years of experience with the city of Vaughan, and I think, as some of you may know, in local government circles we've seen it all.

We're here today as students of local government, not wearing any other mantle, just to look at a couple of the things we believe the committee could consider and look at, should it, in its wisdom, decide to proceed with this bill and adopt it or look to the government to adopt it. We have some suggestions.

As Mr. Murdoch said, there is a theme here, and we do continue that theme. I don't want to necessarily go through every single part of this for you. We've provided copies. I just ask that maybe, if you get the chance, you read it and consider it. The theme is that we believe very strongly that the Municipal Act of Ontario, as we see it now, has had tremendous scrutiny over the past couple of years, mainly through an effort by both governments, I guess, to take a number of the pieces of legislation affecting municipalities and putting them all into one act. They did that, I think quite successfully, in the Municipal Act, 2001. There is another review in place now, looking at bringing more and more things into the Municipal Act.

Our pitch, quite honestly, is in the interest of clarity for the municipalities, and the act that the municipalities generally look to for guidance is the Municipal Act. We're suggesting in this paper that a number of these items be looked at, that if changes are to be made, you look at them in terms of the context of the Municipal Act as opposed to yet another separate piece of legislation. We do find, and I will cover them off a little, some inconsistencies between the Municipal Act now and the new bill. If you do look to proceed, please take a look at those from the point of view of bringing them as much into conformity as you can, just to ease the confusion for not only municipal councils but their clerks and their solicitors and the public who deal with them.

The paper has about four headings, the first one being the requirement for reasonable notice. I think it's fairly straightforward. What we're looking at there is that sometimes it's necessary for municipalities to have—I'm going to put it under emergency situations—special meetings about which they can't always give five days' notice or a number of days' notice. It's just that something has come up that requires attention, and in the public interest they believe they must have a meeting. Sometimes those meetings are entirely open meetings and sometimes they are closed. The ability to give reasonable notice sometimes is very difficult. If the bill or the new legislation requires it to be a specific number of days, it sometimes could be very difficult. One of the things we look for here is some conformity and some ability for the bill to look at that notice aspect so the councils can have a workable situation, just something that will work.

The section on minutes: Perhaps the focus of this whole paper is that the Municipal Act calls for the record of council decisions to be "without note or comment." That is fairly specific and is followed by all municipalities, and should be. Bill 123 would require that council meetings also include "any deliberations engaged in" that were considered in arriving at a decision. That is one area that we believe very strongly is a significant departure from the existing practice in municipalities. As you recall, the Municipal Act itself specifically directs the clerk to record only the minutes "without note or comment." But to require the inclusion of deliberations—I think all those in public service can recognize the subjectivity that could bring. It comes right down to who's taking the notes, who's taking the deliberations, whose judgment it is, who's editing them and where it goes from there. In a practical sense, it could be very confusing to most of the councils and to the public: "We've read the decision of council, we've read the deliberations, but what the heck does it really mean? What did they do?" Maybe that's just a bit of experience talking. We believe there's a reason the Municipal Act specifically said "without note or comment." Those are the actions of council, whether open or closed or whatever. I'm not making judgment on that.

With respect to the exclusions, my comments might be a little different than the others. One of the things in going through this is how to apply this. I tried to look at from the point of, how do we apply it in the municipal sphere? There's a bit of a preponderance of the word "may." One of the things that I and Theresa Caron have found in dealing with municipal councils for a number of years is that you try to keep away from the word "may" if you can. Legislation for municipalities is very much "shall," maybe a couple of "wills." But "may" leaves it pretty open. My comment in here, and you can read it, is that if the "mays" stay in a lot of this, you're actually watering it down, not tightening it up. You're broadening the ability for a judgment call, and I'm not sure that's your intent. If it is, OK, but it's going to be harder to [*failure of sound system*] or administer in that sort of situation.

1600

One of the things that I think is very important is that the Municipal Act and the legislation in Ontario is what we call permissive legislation: Municipalities can only do those things that the province says we can do. But one of the things that the Municipal Act does, or that the province has done through the Municipal Act, is delegate certain things to municipalities. In that process, you are also delegating certain things to municipalities and inherently making them accountable for carrying out actions under those delegations and inherently saying, "We're going to measure you on those." This is the one philosophical point that I'd really like to make. If you're going to give municipalities a role, tell them to do the role and hold them accountable, then it almost follows that if they can demonstrate that their judgment and their decisions are being made in and for the best interests of their municipality, you've almost got to accept that unless there is pretty strong evidence to the contrary that they're not following it. You can get complaints, you can get concerns and you can get misuse, no question; I don't argue that. But generally speaking, it's my experience that municipal councils actually do think about this before they go in camera. Not on the general things that the exceptions are there—they go. That's there, and in every meeting you have a certain number of in camera, but they do wrap their minds around anything that's unusual. I'm saying that the legislation as it stands now, giving them the right to determine what's in the best interests of the public that they serve, that's a hard cut; I recognize that. That's a very hard cut. Just the same, I believe strongly that councils should be trusted.

You may get some disagreement with that. You may get certain items and concerns with that, but the councils can be trusted to do what's in the interest of their public. That doesn't always mean it's going to be in the interest of all the public, but generally speaking, I do believe that councils wrap their minds around that. I just pass that on as input.

The commissioner: There's probably one area that gives some concern. Basically, paraphrasing what I have here, we're going to take a non-accountable, non-elected person and give them some pretty strong powers of enforcement. The penalties aren't really noticed, but there are two types of things here that we have to look at. One is the process part, which is, should they have gone in camera or shouldn't they have gone in camera? That to me is a process thing; that's following the act or not. The second is a decision that the council actually makes. You can appreciate, I'm sure, that if council makes a decision in camera, if there is a concern, they can go to the commissioner, no question. I see what you're looking at there. They can go to the commissioner. The commissioner has the ability to overturn a decision of council made in camera that may already be implemented, because some of these complaint/concern processes can take four, six or seven months at a time to get through. By the time the commissioner makes a decision—I'm not questioning the commissioner's judgment, but if it's a fundamental thing and the commissioner then makes that sort of decision, what do you do? I think the words by a preceding speaker were "contingent liability." But if you've made a decision, the directions are given to staff and they carry out the decision, it's all done, and then the complaint comes in, then you're up the proverbial creek. What do you do? The complaint is usually on a process thing, not necessarily on the decision. It's the process they bring in council to make the decision, not the decision they made, yet the commissioner has the ability to reverse that because perhaps, and maybe inappropriately, they shouldn't have gone in camera. That is the main thing.

The only other thing I would ask you to look at, should the bill proceed pretty well the way it is, is one part of it that says the commissioner may inform the municipal council of a complaint and may give the body the opportunity to respond to the complaint. I know what the intent is there, but you could get a situation where the complaint comes in and the council is not informed and not given the opportunity. This is where I come back to permissive legislation versus optional. "Permissive" says you "shall" notify the municipality of a complaint but "optional" says you "may." That can have a fundamental interpretation, and especially on a hot issue—I think some of you have sat around council tables—it can be a very difficult thing.

In conclusion, there are a couple of things. One is that I believe you can trust councils, although I do believe they need to be reminded constantly of the exceptions to the open meeting rule. Councils, through their procedural bylaws, are constantly striving to improve their procedures and bylaws over time; they really are. More importantly, we believe that if you're going to be looking at changes, fine. Look at the changes in the context of the Municipal Act, the one document that municipalities look to, appeal to, get constant interpretations of and work through. That's the mantra that they work under. They respect the Municipal Act. They get decisions on it.

If there are to be amendments made to the way they do their business, we're just looking to recommend to you that you recommend to the government that those types of changes affecting municipalities are done through Municipal Act reviews, not through a special piece of legislation.

The Chair: Thank you very much, Mr. Somerville. You've about used up your time.

If you have one quick question, I'll allow that, though.

Ms. Di Cocco: Thank you very much for your submission. The only concern that I raise, or I guess the question I raise—you say you trust council. I go back to my experience and to evidence-based analyses of so many instances where it's more of an honour system because there are two pieces missing: one has to do with scrutiny of whether or not it really has applied a mechanism for investigation, and a mechanism of a penalty, if it is so determined that a council or a public body went in camera.

We have a justice system, we have judges who constantly rule—they're not elected. You're suggesting that there was concern about the privacy commissioner, and yet the freedom of information act and all of that comes under that jurisdiction, comes under that profession.

By the way, I'm going to agree to disagree with the submissions made that the privacy commissioner provides a problem. I'm just going to agree to disagree. But very quickly—

The Chair: Ms. Di Cocco, if you could—

Ms. Di Cocco: OK.

The Chair: Quick.

Ms. Di Cocco: I guess what I would like contemplated is the track record, the role of municipalities in leading or even promoting the charge to increase transparency in public decision-making. I find that track record lacking in regard to promoting a system into the Municipal Act. They've actually tried to do the reverse. There's been an advocacy to try to include more items that can go in camera, rather than tightening it up. So that track record gives me concern.

Mr. Somerville: If I may, I believe that you will find that more and more municipalities are looking at the procedural bylaws and what they do. It is not my experience that they're looking to expand the list of exemptions. It is my experience that at times they try to stretch them, no question, but I still see municipalities—and this comes back a little bit to the delegation and a little bit to the trust—looking to the Municipal Act as their guide, making their judgment calls in the best interests of their people. But many of them are looking at their procedural bylaws. One of the avenues where you

might be able to get your message out is to constantly go after them for those procedural bylaws and work on them, because I do believe those are the rules that they have to govern themselves.

The Chair: I'm going to allow Mr. Murdoch a quick question as well.

Mr. Murdoch: It won't be a question, but just to say that there are three good things there, where you mentioned "without comment." I don't know how—and that's where we get into trouble and that's how the media get into trouble because they sometimes say what they think people said but they didn't really say it, and that could really come in there. The "may" and "shall" has always been a problem, even with the Planning Act.

Another commissioner: maybe we don't need another one. We've already got a whole bunch running around out there who aren't publicly elected. I can think of one: one of Marilyn's friends. The Niagara Escarpment commissioners are not properly elected and they have a lot of power. We're going to all of a sudden start turning people off running for government because their powers are taken away when they get elected.

Just good thoughts, really good thoughts.

Mr. Somerville: Thank you very much.

The Chair: Thank you for your presentation. It's too bad that I'm the Chair of this meeting, so I can't rebut that comment. Another time; we'll take it outside.

Thank you very much for your presentation. It was very informative.

1610

REBECCA BEATON

The Chair: Now I'd like to call Ms. Rebecca Beaton. Welcome, Ms. Beaton. While you're getting settled, I'll tell you that as an individual, you have 10 minutes to make your presentation. If you could state your name for the record before you begin. Thank you for arriving early for your presentation. We appreciate it.

Ms. Rebecca Beaton: Thank you for allowing me to speak to this committee regarding this bill. My name is Rebecca Beaton. I'm a resident of Aurora.

I fully support this bill. In fact, I don't think it goes far enough.

I have been involved in politics to one degree or another for the past 20 years, and as an elected director for the Newmarket–Aurora federal Liberal riding, I do take this very seriously.

In December 2003, our newly elected municipal council determined that they would have an off-site retreat so that they could learn the process and procedures of council. The only problem with that particular retreat was that it was going to be outside of the municipality. In fact, it was going to be scheduled to take place in Alliston, Ontario. There were three councillors of nine who stated publicly that they would not attend because they didn't feel the public could become involved in that process.

The Municipal Act of 2001, as you are all aware, addresses where meetings of a municipality will take place. It states, to me quite clearly, that they must take place in the municipality or an adjacent municipality. Unfortunately, our procedural bylaw had not been brought up to date, so that question was left wide open. I contacted municipal affairs, and I was referred to an adviser. I contacted the adviser on January 8 inquiring what would happen if the procedural bylaw had not been brought up to date to cover council leaving the municipality and having a meeting elsewhere. I was informed by this individual, Alex Mitchell, that it was not really that big a deal and that I shouldn't be concerned about it.

I received a copy of a letter that Mr. Mitchell sent to the town the following day, and I received this a month or two after this had all occurred. This letter from Mr. Mitchell was sent to the clerk for the town of Aurora, in which he says, "As a result of an inquiry made by a resident of Aurora"—and let me be clear, I am that resident—"to the Ministry of Municipal Affairs"—he was following up on a phone call from Mr. Alex Mitchell—"yesterday inquiring about the proposed council and staff off-site get-together this forthcoming weekend. I provided an explanation...." to council. He goes on, "After our brief discussion" and "Based on the attached memo and the verbal interpretation that has been provided to staff by the town solicitor, it appears that the proposed off-site workshop is permitted on the understanding that this is not a council meeting under the terms of the Municipal Act, and that no decisions will be made at this meeting." He goes on and on.

A letter sent by Alex Mitchell to the clerk for the town of Aurora states, and I will quote to you:

"It's amazing what you can find when you type 'definition of a meeting' 'Ontario' in Google.

"Here's an interesting take on the subject from the town of Markham, where they've called on the province 'to provide a clear, precise and practical definition of a meeting.'"

Clearly, we need to have a definition of what a meeting is and when you can have it, where you can have it and what you will discuss. When municipalities are receiving information via their legal representation on Google, we are in very deep trouble.

That's my first item. I know you've all been here all day, so I'll try to be brief on my next incident. I've got several.

The next one: [*failure of sound system*]. This particular issue of the off-site created quite a bit of controversy in our town. It was editorialized, there were letters to the paper, it was on the front page for several weeks. To get around the controversy that had been caused by that off-site meeting, council determined that they would try to circumvent the system, that they would have a get-together, a gathering or whatever you want to call it, but they wouldn't call it a meeting.

In that regard, they had a special meeting on October 25 in which they discussed how they could get around the procedural bylaw and have a meeting, even have it in camera, and how they could do that.

The minutes for that special meeting then came before council in a report dated November 2, by which—and

there was quite a bit of controversy about this—they would have a meeting, possibly in camera, and call it an assembly. It was passed by our council on a recorded vote. That same council [failure of sound system] so upset some members about what happened [*failure of sound system*] they asked that this new bylaw for the town of Aurora be forwarded to the Office of the Attorney General, the privacy commissioner of Ontario, the Ministry of Municipal Affairs and Housing and the Sarnia–Lambton MPP, Carolyn Di Cocco. That motion was defeated. [*Failure of sound system*] did not want you to know or will make it as difficult as they can to find out what they had done.

The night that item passed, that they could have an in camera assembly, which also accompanied a legal opinion by Mr. George Rust-D'Eye in which he says "if the courts accept that an assembly is not a meeting," that same evening, according to Councillor Phyllis Morris in a letter to council dated November 17 [*failure of sound system*]. I would like to read this to you. The same night that they had had this conversation for an hour, all of the controversy about going in camera and assemblies—

The Chair: I'd just interrupt and tell you that you've got two minutes left. I know you want to read this letter, so I just wanted to let you know.

Ms. Beaton: Yes, thank you. The same night that council passed this resolution, they went in camera regarding another matter, presumably. The deputy mayor wrote:

"Dear Mr. Mayor:

"Last night, after all that had been said during public discussion about council being able to keep themselves from straying at 'assemblies' into areas of discussions or debates that are not allowed....

"After numerous reassurances were given that council would not introduce any topic for discussion or take any action at 'assemblies' that are not permitted....

"And after you as mayor were quoted in the Era-Banner, November 7, 2004, as saying: 'At least six of us have enough faith in ourselves that we will stick to the rules'....

"Considering all of the above, it is somewhat disturbing to note that within less than an hour of last night's meeting, where all of those statements were made, it appears that the in camera rules specific to the Municipal Act were themselves at risk of being ignored, had I not stepped in.

"You will recall that just before adjournment, council voted last night to go in camera to discuss a 'personnel matter.' Yet after the end of the in camera discussion on that topic, as we were leaving, as chairperson you attempted to introduce another non-agenda item with what is fast becoming a familiar phrase when trying to add something: 'While council is here....'

"Being present at this official and legally constituted council meeting, I was able to step in immediately to highlight this lapse in rules, my actions effectively putting a halt to your fresh item being tabled and inadvertently discussed by councillors."

She then quotes part of the Municipal Act.

"Therefore, it is my understanding that no additional items were permitted to be discussed by council behind closed doors last night, as we had not voted to take anything other than the 'personnel matter' in camera. By copy of this email, I am requesting that the clerk place a copy into the councillors' public correspondence file," blah blah blah.

1620

"As the in camera meeting discussion related to the 'personnel matter' only, and as discussion had already concluded, it could be concluded that the matter you were attempting to introduce was not appropriately in camera. Therefore any comments made after the in camera portion had closed are not covered by in camera confidentiality.

"This is of serious concern. Because if as a chairperson, during a properly constituted in camera meeting you are seen to ignore the rules so soon after discussing the very matter of rules, and while the procedural bylaw debate was presumably still fresh in everybody's mind.

"What guarantee can you offer the public that you as chair will be able to ensure that such a lapse will not occur while at an 'assembly'? Because assemblies will be conducted in a less than formal setting with freewheeling chats going on, perhaps out of earshot of the public and media while behind closed doors.

"Sincerely,

"Phyllis Morris."

I know that my time is up. I have a bit more. I hope that you will have the courage to pass this legislation. It's desperately needed.

The Chair: Thank you very much, Ms. Beaton, for coming forward today.

FAIR SHARE NIAGARA

The Chair: We'll now call on Fair Share Niagara. Please state your name for the record, and you have 15 minutes to make your presentation.

Mr. Wayne Gates: My name is Wayne Gates. I'm representing a group of citizens called Fair Share, from Niagara Falls, to speak on Bill 123. I provided a copy to everybody so they can follow along. Probably one of my best things isn't reading, so I'll try and do that. At least you'll have it in front of you so you can see.

Bill 123 is perhaps one of our greatest disappointments. Many individuals and groups would have been loud in support of such a bill if indeed it fulfilled its preamble. The list of exceptions renders the bill useless. We have been given lip service and no substance. Any group, board or commission managing public funds or administrating public assets must be transparent and should be accountable. We recall the Gomery investigation as one example of direction gone wrong.

What you will be providing is an opportunity for non-elected—and I believe that's key—groups to continue to use taxpayers' money without scrutiny. Not only are openness and accountability our concern, but the economic implications of continuing this haphazard method

of management jeopardize us and our children in the future.

We simply cannot afford to have public funds administered by non-elected bodies operating in secrecy. We have experienced continuing escalation of government costs, and some of this relates directly to boards, commissions and groups who do not answer directly to voters. This must be controlled. It will never be if there is no public scrutiny. Ontarians need to know whether their tax dollars are wisely spent as the norm or the exception. We need far more access than the occasional press release or report to the government.

This bill is narrow and limited in scope and does not achieve what is promised in the title or the preamble. It will do more harm than good by entrenching some quasi-public bodies in their present roles.

We urge you to reject this bill in its present form and do for the people of this province all that has been promised to control the operation and accountability of special interest groups.

I thought it was important today to bring examples of individuals who really care about openness and transparency and where their dollars are going, so I brought some minutes. The reason I didn't provide them to the body here today was the fact that I just got them yesterday and I didn't have a chance; I worked day shift today. It's from the city of St. Catharines clerk's office. An individual named Mike Sullivan has been going to city council for close to a year about hydro. I'm going to read some of it to you; I won't read it all. These are his comments:

"The matter I wish to address is the issue of the continued secrecy in the manner in which St. Catharines Hydro reports its financial business and selects its directors, including the fact that the shareholders' meetings with the city council continue to be held in camera, thereby avoiding public scrutiny."

Failure of sound system.

"When the province required municipalities' hydro commissions to be incorporated, incorporation occurred under the Ontario Business Corporations Act, with the intention that the newly formed corporations would run competitively, the same as other corporations. Most private corporations do not hold public meetings, as they may disclose competitive trade information.

"As a result of the requirement of the incorporation, the practice for the city of St. Catharines reflects that the annual shareholders' meeting will be held privately, in common with other private corporations."

As he went through the council meeting that night, the clerk said, "If it is the council's intention to hold or request that the St. Catharines Hydro annual shareholders' meeting be held publicly, we would have to make a request that a bylaw which is passed by St. Catharines Hydro be amended in order to allow an invitation to be extended to other than those already provided for in section 1109 of the corporation's bylaw act."

I think this is a key part of this whole paragraph: "In speaking with the chairperson of St. Catharines Hydro Inc., it is his preference that the annual shareholders' meetings continue to be private."

This is Mike talking again. "Mr. Mike Sullivan advised members of council that the St. Catharines Hydro shareholders' meetings with city council have all been held in camera and no public report is made of those meetings. Mr. Sullivan stated that he has previously outlined his concerns to city council, but the meetings still are held in private."

This is a citizen who for over a year has been just trying to find out what's going on with hydro. What happened in this city is that they ended up merging hydro with Hamilton. The citizens of St. Catharines never knew about it. They are represented by a union. Mike is actually the chairperson of that particular unit, St. Catharines Hydro. They never knew about it. I think that's wrong. I believe that the citizens own hydro. We're shareholders and we should know when they're going to merge with another utility.

It's just an example that I feel is very important of what goes on. I've done presentations in Niagara Falls as well on the same issue, to have their meetings open, and again, it's not being allowed. I think that's wrong. So that's part of it.

I haven't been here all day, but my understanding is that there have been a number of other presenters here who obviously have said that they wanted a difference in the bill. I'll list a couple of them, because I want to make a couple of comments. Many of these are urging amendments to Bill 123 or exclusions from it—the Ontario Hospital Association, the University of Toronto—and these are some of the complaints: that the existing provisions of their own governing acts adequately address transparency and accountability; that Bill 123 conflicts with their governing acts; that the application of Bill 123 to their committees may lead to loss of confidentiality with regard to sensitive or personal information; that Bill 123 will impose an administrative burden—again, this is the Ontario Hospital Association; they disagree with empowering of the information and privacy commissioner to adjudicate complaints and to inspect the premises—that's the police services board and the University of Toronto.

Obviously, there have been a number of presenters here who have made their complaints or certainly tried to get their point across, and I'm going to comment on a couple of them. I'll try to go as quickly as I can so I don't use up all my time. These are my comments.

1630

The bill is flawed because it overlaps and, in some cases, contradicts some already existing acts. This is the complaint of the Ontario Hospital Association, the police services board, the College of Social Workers and Social Service Workers, the Association of Municipal Managers, Clerks and Treasurers of Ontario, and the University of Toronto.

The bill is also flawed because it does not include all public bodies in Ontario, only those that are designated.

Passing a bill entitled Transparency in Public Matters Act misleads the public of this province. Such a bill

should not designate only a few bodies to abide by transparency provisions. To be truly transparent, the bill should include every board, commission or public body in the province that manages or deals with public funds, public assets or public services. A bill that does not include all public bodies in Ontario will entrench secrecy and closed-door, behind-the-scenes dealings. This would be a travesty for the Ontario taxpayers, who were promised and deserve accountability. I believe other provinces already have this.

Public scrutiny and input is a basic tenet of democracy. This basic principle should override all other considerations in the management or use of public funds, assets and services.

There are a couple of things in here that I could answer about some of the concerns, but I don't think it's fair for me to do that.

But I think it's also important to talk about Niagara, seeing as I'm from Niagara. Obviously, I'm very disappointed that Kim Craitor, our MPP, is not here. I know he was here this morning. Just for the record, I'd say that our Fair Share group is very disappointed that Kim didn't stay around.

With regard to Niagara, numerous grassroots citizens groups have arisen because of secrecy and closed-door policies.

Some in this room may know that when circus-like gondola rides were announced by the Niagara Parks Commission in 2004, a shocked public mobilized overwhelming support from around the world to chastise and reverse this closed-door decision made by the Niagara Parks Commission appointees. The costly plans and commitments made by the commission could have been avoided if the board was required to operate with transparency.

They spent thousands and thousands of dollars on this. The plans that they had—they sent their appointed commissioners to different places around the world to look at other rides. A citizens' group and the public found out about it. We had a meeting and there were 400 or 500 people at the meeting. Speaker after speaker went to the mike and, obviously, we were persuasive enough that the commission finally changed its mind and decided that maybe it's not a good idea. But they wasted—and I can say this—tens of thousands of dollars on that issue.

Citizens of Niagara Falls are outraged that the new casino contract is secret and unavailable under the freedom of information act. A group called Fair Share is fighting to have the agreed-upon commitments of the secret document fulfilled. The group demands accountability in decisions made on behalf of the people of Ontario.

For those who might not know that issue, there were a lot of things promised when they were supposedly awarded the contract to build a casino in Niagara Falls. We believe it's a $100-million commitment to build attractions that would obviously draw more people into the tourist area and create more jobs. We believe that is not being lived up to. Unfortunately, we can't see the contract that was signed between the parties, and I think that's wrong. I think citizens should have the right to know exactly what that contract is. I believe that the province is making a lot of money at the casino; it's about $600 million or $700 million just out of the Niagara Falls casino. I believe the citizens should have a right to know what's going on there and that particular contract should be open.

Several years ago, a Citizens for Democracy group formed in Niagara Falls. The group works actively to promote accountability, transparency, democracy and responsible government at city hall. That group actually played a major role in the last election in Niagara Falls. The mayor was defeated. He was a nice man, but he was defeated, and I think that particular group, certainly because they felt city hall wasn't open and transparent, made a lot of changes on that council. I think one of the reasons was because it wasn't open.

In closing, I'd like to say the people of Niagara have shown that they demand and expect accountability and transparency in all public matters. Bill 123 should not be limited to a few designated public bodies in Ontario. A Transparency in Public Matters Act should cover every aspect of decisions made on behalf of the people of Ontario.

I'd just like to conclude by saying thank you very much for the opportunity for our group to bring the concerns from the people you represent.

The Chair: Thank you very much, Mr. Gates. We do have a couple of minutes left for questions.

Ms. Di Cocco.

Mr. Gates: I should have kept talking. I was advised to keep talking; that way there are no questions. Just kidding.

Interjection.

The Chair: Yes, Mr. Ramal, but I would ask people to try to be brief.

Ms. Di Cocco: I will try.

The Chair: She will try.

Ms. Di Cocco: First of all, I want to thank you for coming here and taking time out of your day as a citizen to bring forward your views on this.

Mr. Gates: My privilege.

Ms. Di Cocco: And I want to thank you for the passion I've heard with the submissions made on this. The reason I thank you for that is because I spent seven years, before I ever got into elected office, actually looking for answers that ended up leading to a judicial inquiry. So I empathize and understand the frustration. I've lived it.

In regard to the act itself, it's a big first step. There is no such other legislation in Canada, by the way; it does not exist. That is why this is groundbreaking. I thought at the beginning that it should be there, yet it is quite groundbreaking legislation. I know Kim is going to bring forward some amendments to this to add other bodies and commissions, and possibly the Niagara Parks Commission. He's made a very strong case for why that's so.

I'm trying to get the legislation passed, so I'm trying to simplify it. It's certainly not an attempt to mislead, but it is groundbreaking stuff that we're doing here. You

must have sat here and listened to the pushback with regard to—there are a lot of bodies that don't want this kind of legislation incorporated this way. So there are a lot of things that we have to do.

I can assure you of one thing: The intent of this legislation is to do exactly what you have set out to do, and that is to enhance, put some teeth into being able to have more transparency and decision-making by public bodies. It isn't comprehensive, I agree with you, because we have to start somewhere and then build it. We don't have that legislation yet.

The Chair: Can I ask you to wrap up, Ms. Di Cocco?

Ms. Di Cocco: OK.

I guess the first step is to get legislation in place that begins to raise the bar and to start adding more comprehensively. That's the intent.

Mr. Khalil Ramal (London–Fanshawe): There's something I just want to be on the record. I'd like to talk about my colleague Kim Craitor. He sat on the committee the whole week and also today, the whole morning. He had to go to the Niagara region to meet the Minister of Public Infrastructure Renewal to deal with infrastructure issues concerning the Niagara region. Thank you. Just to be on the record, that's all.

Mr. Gates: I can address that. I'm fully aware of what Kim was doing today. Kim's fully aware of our group. I understand that an MPP is extremely busy; I guess he has to prioritize what's important to him. The position of our group is that this was very important to the citizens of Niagara. I can appreciate he's a busy man, but I'm not going to change my comments on how we feel about him not being here.

The Chair: Well, we have it on the record from both of you.

Mr. Gates: I appreciate you sticking up for your colleague. That's very important in life, I'll tell you.

The Chair: Thank you.

Mr. Murdoch, did you have a comment or question?

Mr. Murdoch: No.

The Chair: OK. That concludes our presentations for this bill today. Thank you very much for—yes, Mr. Murdoch?

Mr. Murdoch: I just want to sum up a little bit of what I've seen and heard today. It seems everybody likes what the bill has in there. There's not a lot of description there. People should be accountable, and I commend you for bringing it in.

I can just see where maybe there are a lot of agencies—I think they're all looked after by a bill somewhere along the line, and maybe that's where we should be going with it, rather than creating a new bill. I know the municipalities for sure are, but there are other agencies like the Niagara Falls parks board that must be created by some legislation and it maybe could be all settled there.

I don't know how far we should push this, because we've talked about all the other agencies; nobody ever did talk about our own government. I'm not blaming the members who are here from the present-day government for this, but I think ministries, regardless, have a lot of leeway with what they can do. I'm talking about the bureaucracy in the ministries, and I just wanted to mention that I'm involved in one right now. The Ministry of Natural Resources has told me that they can't release something to me because government wouldn't be able to function properly if I knew. That was a shock to me, because I thought I was part of government. The same letter went to citizens also. Maybe there was something in this agreement that they made in my area, but this is from a bureaucrat telling me, as the MPP for the area, that I can't know what's in an agreement that they've made with certain people within my area, and the rest of the people can't know about it either.

I'm just saying that what you're talking about is a good start. I have nothing against that, and I have nothing against your members of the present-day government. But your ministries need to be reined in too, because I think they have a great deal of leeway. We, as politicians, seem to be second-class to some of our bureaucrats.

I just want to throw that in at the end of this discussion, because it all fits in.

The Chair: Before I recognize Ms. Di Cocco, I do want to say that this committee dealt with seven bills, and this was the seventh. The subcommittee will be meeting shortly to determine, along with House leaders, the process. That will be determined in the near future.

Ms. Di Cocco: Certainly, one of the best parts of being a legislator is to actually bring an idea and see it moved along. Ms. Churley has certainly had a great deal of experience in watching a bill come forward many times and then become incorporated in the form of a government bill.

My response, Mr. Murdoch, is that the intent of this bill is very clear, of course. How we strengthen it and not water it down is what my concern always is. The different acts that are there have not adequately addressed this. I can tell you that I have attempted many times, when you were on this side and I was on that side, to strengthen this capacity.

When I was just a citizen dealing with this inquiry issue, it was about trying to strengthen this concept, this idealism or this naïveté that we have a right to know when they're public bodies who are spending our dollars. We tend to find all kinds of reasons why it can't be done; that's the easy part. It's by finding the way to change the culture that we can begin to really change it, and that's what I want us to try to do.

Maybe a stand-alone bill would be a way to do that, because then it is a new culture; we are developing something new. Entrenching it in something that's already there—it may not have the intent. I'm surprised that this hasn't happened before. That's my response, and that's why I'm not convinced that it shouldn't be in a separate act, because up until now, nobody has really wanted to do it.

The Chair: Thank you, Ms. Di Cocco. Seeing no other speakers, this concludes the business of the standing committee on regulations and private bills. I want to thank all of the members and all of the participants in today's meeting.

The committee adjourned at 1644.

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Chair / Présidente
Ms. Marilyn Churley (Toronto–Danforth ND)

Vice-Chair / Vice-Président
Mr. Tony C. Wong (Markham L)

Mr. Gilles Bisson (Timmins–James Bay / Timmins–Baie James ND)
Ms. Marilyn Churley (Toronto–Danforth ND)
Mr. Kim Craitor (Niagara Falls L)
Mr. Kuldip Kular (Bramalea–Gore–Malton–Springdale L)
Mr. Gerry Martiniuk (Cambridge PC)
Mr. Bill Murdoch (Bruce–Grey–Owen Sound PC)
Mr. Khalil Ramal (London–Fanshawe L)
Mrs. Maria Van Bommel (Lambton–Kent–Middlesex L)
Mr. Tony C. Wong (Markham L)

Substitutions / Membres remplaçants
Ms. Caroline Di Cocco (Sarnia–Lambton L)
Ms. Andrea Horwath (Hamilton East / Hamilton-Est ND)
Ms. Shelley Martel (Nickel Belt ND)

Clerk / Greffière
Ms. Tonia Grannum

Staff / Personnel
Ms. Margaret Drent, research officer
Research and Information Services

CONTENTS

Thursday 29 September 2005